

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 UNITED STATES OF AMERICA)
4)
5 vs.) Criminal Action
6)
7 HERZZON SANDOVAL,) No. 15-10338-FDS
8 EDWIN GUZMAN,)
9 CESAR MARTINEZ,)
10 ERICK ARGUETA LARIOS,)
11) Defendants)

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BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

JURY TRIAL DAY 7

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

February 7, 2018
9:29 a.m.

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22 ALSO PRESENT: Gabriel Haddad, Spanish Interpreter
23 Carrie Lilley, Spanish Interpreter

24

25

I N D E X

WITNESS
JOSE HERNANDEZ MIGUEL

DIRECT CROSS REDIRECT RECROSS

By Mr. Pohl

6

EXHIBITS

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PROCEEDINGS

2

THE CLERK: All rise. Please be seated. Good morning, everyone.

4

MR. POHL: Good morning.

5

THE COURT: What is it that we need to discuss? Mr. Iovieno.

7

MR. NORKUNAS: Yes, your Honor, thank you. I've been asked to address an issue related to the meeting President Trump had yesterday regarding law enforcement investigations in MS-13. It was televised yesterday, from what I understand. I have particular concern to the defense to the fact that a representative from the Department of Justice was at that meeting. I actually saw that portion of the broadcast. It was broadcast on C-Span, I believe, and talked extensively on the news last night. That representative made reference to the Boston MS-13 investigation, specifically the Constitution Beach murder, which I believe is part of this case, so there was reference to that.

19

09:30AM 20

I would ask that the Court inquire from the jury whether or not anybody heard that.

21

22

23

24

25

THE COURT: I'm not going to identify anything. I myself have not seen it. I'll just ask whether anyone in the last 24 hours read or heard or saw any news reports.

MR. IOVIENO: Thank you.

THE COURT: It's always surprising to me how few

1 people watch the news. I don't know, I guess it's good news in
2 this context but not good for our country, but I'll make that
3 inquiry. I see that there were a number of motions or requests
4 filed, which I will go through as best I can on the break.

5 Yes, Mr. Pohl.

6 MR. POHL: Excuse me, I'm sorry, I was just going to
7 ask, you said yesterday that we're taking one break. I wanted
8 to know what the schedule was.

9 THE COURT: I thought on the order of 11:15 or so.

09:31AM 10 MR. POHL: Fine. Thank you.

11 THE COURT: If somebody, the lawyers, not the jurors,
12 if somebody needs to take a break, we'll take a break.

13 THE CLERK: All rise for the jury.

14 (JURORS ENTERED THE COURTROOM.)

15 THE COURT: Good morning, ladies and gentlemen.
16 Thank you for your patience and cooperation in starting a
17 little late today. I think my plan is to take one break at
18 about 11:15 or so, but I don't want anyone suffering if you
19 need a break earlier than that, so please raise your hand and
09:34AM 20 we'll take a break and accommodate you.

21 Also, before we get started, I just want to check, did
22 any of you see or hear or read anything on the news about this
23 case or about MS-13 in the last 24 hours? Okay. Everyone is
24 shaking their head. All right. Thank you.

25 Mr. Pohl, whenever you're ready.

1 MR. POHL: Thank you very much, your Honor.

2 JOSE HERNANDEZ MIGUEL, RESUMED

3 DIRECT EXAMINATION

4 BY MR. POHL:

5 Q. Good morning, Mr. Hernandez Miguel.

6 A. Good morning.

7 Q. Sir, when we left off yesterday, you had arrived in the
8 Boston area, and we were talking about the time period around
9 2007. Do you remember that?

09:35AM 10 A. Yes.

11 Q. All right. And we had gone through several photos of
12 people that you met in your time in the Boston area. I'm
13 going to pull those up again just to orient us for your
14 testimony here today starting with Exhibit 2.

15 THE CLERK: Admitted, correct?

16 MR. POHL: Correct. All of these have been admitted,
17 Madam Clerk. Thank you.

18 THE CLERK: Thank you.

19 A. Okay.

09:36AM 20 Q. Exhibit 2, who is that?

21 A. Casper.

22 Q. Exhibit 3?

23 A. Playa.

24 Q. Exhibit 4?

25 A. Checha.

1 Q. Exhibit 5?

2 A. Lobo.

3 Q. Exhibit 7?

4 A. Tigre.

5 Q. Exhibit 8?

6 A. Brujo.

7 Q. Exhibit 9?

8 A. Animal.

9 Q. Exhibit 10?

09:36AM 10 A. Vincentino.

11 Q. Exhibit 11?

12 A. Caballo.

13 Q. Before we go any further, Mr. Hernandez Miguel, the person
14 you've identified in photograph 2 as Casper, do you see that
15 person in court?

16 A. Yes, in the white shirt back there.

17 MR. POHL: I ask that the record reflect that
18 Mr. Hernandez Miguel has identified Mr. Sandoval.

19 THE COURT: Yes.

09:37AM 20 Q. Mr. Hernandez Miguel, the photograph you identified as
21 Playa, Exhibit 3, do you see Playa in court?

22 A. Yes, that's him. He's wearing a jacket.

23 MR. POHL: I ask that the record reflect that
24 Mr. Hernandez Miguel has identified Mr. Guzman.

25 THE COURT: Yes.

1 Q. Mr. Hernandez Miguel, do you see the person you identified
2 in Exhibit 4, Checha, in court?

3 A. Yes, over there.

4 MR. POHL: I ask that the record reflect that
5 Mr. Hernandez Miguel has identified Mr. Martinez?

6 THE COURT: Yes.

7 Q. Finally, Mr. Hernandez Miguel, when you looked at the
8 photograph in Exhibit 5, Lobo, do you see Lobo in the
9 courtroom?

09:38AM 10 A. Yes. Right here in front.

11 MR. POHL: I ask that the record reflect that
12 Mr. Hernandez Miguel has identified Mr. Argueta Larios.

13 THE COURT: Yes.

14 MR. POHL: Thank you.

15 Q. So, Mr. Hernandez Miguel, when you began -- tell me about
16 when you finally settled in the Boston area. Did you begin to
17 meet with Casper and Playa and the other members of the
18 Eastside clique?

19 A. Yes, when I first came in 2007 here, I started hanging out
09:39AM 20 with some dudes in Somerville, and within a short time, months
21 later, I went with several other dudes to Tecolote's house,
22 and --

23 THE INTERPRETER: I didn't understand the name of the
24 street, but --

25 A. In Everett. And I saw Casper and Playa again there.

1 Q. And what happened when you saw Casper and Playa again?

2 MR. IOVIENO: Objection, your Honor. This is
3 repetitive.

4 THE COURT: I'll allow it within reason. Overruled.

5 A. We were hanging out there, and I began meeting more dudes
6 from Eastside, and since I was already from barrio and Casper
7 said to me one day that since my clique was not in
8 Massachusetts, why didn't they take the word with the Eastside
9 members -- and the word, taking the word meant that I had to
09:40AM 10 follow all of the rules of the clique.

11 MR. MURPHY: Objection, your Honor.

12 THE COURT: Hold on, hold on, hold on. We'll stop the
13 answer there. Let's put another question to the witness.

14 MR. POHL: Thank you, your Honor.

15 Q. So, Mr. Hernandez Miguel, Casper told you you had to
16 follow the rules of the clique?

17 MR. MURPHY: Objection, your Honor, leading.

18 THE COURT: Well, he's paraphrasing what the witness
19 has answered. Overruled.

09:41AM 20 A. Yes.

21 Q. Okay. What did Casper tell you were the rules of the
22 clique?

23 A. The rules were that I had to attend the meetings and that
24 I would be aware of all of the problems and all of the
25 movements of the clique. And although I wasn't jumped in with

1 the Eastside, but I was going to run with them as though I had
2 been because I had been jumped into the clique in California.

3 Q. What did you mean by "run with them"?

4 MR. MURPHY: Objection, your Honor.

5 THE COURT: Overruled.

6 Q. Mr. Hernandez Miguel, you can answer. What did you mean
7 when you said "run with the clique"?

8 A. In other words, that I give them my word, and my word
9 meant that I would now represent the Eastside clique and that I
09:42AM 10 would no longer be representing my own clique because when I'd
11 meet other dudes, I would no longer say I belong to the Seaside
12 clique, but I would say I was with the Eastside Locos. That's
13 what it means to have the word with them.

14 Q. Did you talk with Casper about what it meant to be a
15 member of MS-13?

16 A. I don't understand the question.

17 Q. Okay. Well, when you and Casper talked about the Eastside
18 clique and you met Casper, did you talk about what it means to
19 be a member of MS-13?

09:43AM 20 MR. IOVIEENO: Objection, your Honor, leading.

21 THE COURT: Overruled.

22 A. Yes.

23 Q. Okay. And what did Casper and you discuss about that?

24 A. That when one is jumped into MS-13, one is aware that one
25 is jumped in to kill or to look for chavalas.

1 MR. MURPHY: Objection, your Honor.

2 THE COURT: Overruled.

3 A. That's the main mission of MS-13, to kill chavalas.

4 Q. You used the word "chavalas." What's a chavala?

5 A. Those are the 18s, which is the rival gang of MS-13.

6 Q. Did you talk about -- you talked about meetings, correct?

7 A. Yes.

8 Q. Okay. And what did Casper say to you about meeting with
9 the clique?

09:45AM 10 A. That I was going to run like a member of the clique.

11 Q. Did you begin to meet with members of the Eastside clique?

12 A. Yes.

13 Q. And again, in this time frame around 2007, who did
14 you -- who were the members of Eastside that you would attend
15 meetings with?

16 A. Casper, Playa, Loquillo was there, Rebelde, Ducky, Spooky
17 was there. There were more. I don't recall right now.

18 Q. Okay. So when you went to clique meetings, did you have
19 to do anything?

09:46AM 20 A. I don't understand the question.

21 Q. I don't blame you. That was a bad question. Did you ever
22 have to -- did you bring money to the clique meetings?

23 A. Every member of the clique has to pay dues.

24 Q. Okay. And how did you know that?

25 A. Because once you are jumped into MS and you go to

1 meetings, you have to pay dues to pay for the expenses of MS.

2 Q. And when do you pay those expenses?

3 A. How much?

4 Q. Well, you do that at the clique meetings?

5 A. Yes.

6 Q. And how much money do you have to bring or contribute at
7 the clique meetings?

8 A. For the Eastside clique, whoever was working would pay \$30
9 and whoever was not working would pay \$20.

09:47AM 10 Q. How often would you meet? Again, we're talking about
11 2007, early on in your time here in the Boston area?

12 A. We would meet each month. If there are conflicts or if
13 there's a reason why we need to collect more money, we would
14 meet twice a month, every two weeks, and if there's something
15 serious happening in the clique, then we would have to meet
16 each week.

17 Q. Okay. You said that the money went to the business of MS.
18 What do you mean by that? What does the money go for?

19 MR. LOPEZ: Objection, your Honor. Foundation.

09:49AM 20 Q. Well, let me ask you this question first. Did you discuss
21 where the money went -- excuse me. Did you discuss what the
22 money was for in your clique meetings?

23 A. Yes.

24 Q. Okay. And was Casper at those meetings?

25 A. Always.

1 Q. Playa?

2 A. Yes.

3 Q. All right. So, when you would bring money to the clique
4 meetings, would you discuss what the money was going to be used
5 for?

6 A. Yes.

7 Q. Okay. And what would the money be used for?

8 MR. LOPEZ: Objection, your Honor.

9 THE COURT: Well, he can -- I'll let him testify as to
09:50AM 10 what other people said in those meetings. Why don't we start
11 there.

12 Q. What did -- did Casper and Playa talk about where the
13 money went?

14 A. Yes.

15 Q. Okay. What did they tell you the money was being used
16 for?

17 A. Playa, who was second word, was the one in charge of the
18 money, so the money was used to buy guns and guns for the
19 clique and to help the dudes that are in jail in El Salvador
09:50AM 20 and here as well.

21 Q. Okay. You talked about Playa was in charge of the money?

22 A. Yes.

23 Q. How did you know that? What did you see at the clique
24 meetings that let you think that Playa was in charge of the
25 money?

1 A. He was in charge of the money. He was like the accountant
2 or treasurer of the clique. He's the one that would collect
3 the dues, and he's the one who kept track of who owed money and
4 who had paid. He always kept that on his telephone. Whenever
5 we'd have a meeting and somebody owed money, he would say, oh,
6 so and so owes this much. And each time the money was used,
7 for instance, sending the money to El Salvador, he would report
8 how much had come out of the box and how much was left.

9 Q. Okay. So I'm going to ask you a couple questions about
09:52AM 10 that answer. Let's start where you just left off. Playa
11 collected the money?

12 A. Yes.

13 Q. All right. Was there someone in the clique whose job it
14 was to send the money to El Salvador?

15 A. Yes.

16 Q. And was it more than one person?

17 A. Yes.

18 Q. All right. And what kinds of people? Do you remember the
19 names of some of the people in the Eastside clique that would
09:53AM 20 send money to El Salvador?

21 A. I do remember who they were, but it wasn't during that
22 period.

23 Q. I see.

24 A. For instance, Checha was sometimes told by the dudes to
25 send money to El Salvador, so was Negro, so was Vincentino.

1 Q. Okay. Maybe I'm asking you a question that's not bounded
2 by this early 2008 period, but --

3 THE COURT: Well, you --

4 MR. POHL: Well, I'll come back to that.

5 THE COURT: Why don't you start over.

6 Q. You said in addition to the money being sent to
7 El Salvador, you said that the money went for guns?

8 A. Yes.

9 Q. And I think you said for clique guns?

09:54AM 10 A. Yes.

11 Q. What did you mean by that? What's a clique gun?

12 A. That's a clique gun is a gun that the clique buys but any
13 homeboy in the clique can use.

14 Q. Would the clique guns be stored in a particular place?

15 A. Yes, one of the dudes always had it.

16 Q. How would other people in the clique know about the gun?

17 MR. MURPHY: Objection, your Honor.

18 THE COURT: Why don't you rephrase.

19 Q. Well, Mr. Hernandez Miguel, during the time that you were
09:55AM 20 in the Eastside clique, did you ever have possession of a
21 clique gun?

22 A. Could you repeat the question, please?

23 Q. Sure. Did you ever have -- did you ever possess or have a
24 clique gun?

25 A. Yes.

1 Q. All right. And did you talk about -- and when was that?

2 A. When I was arrested, I had the clique gun.

3 Q. Okay. And did you talk about the fact that you had the
4 clique gun with other members of the Eastside clique?

5 A. Yes.

6 Q. And when did you do that?

7 A. Well, first when we bought the gun, Negro had the gun, so
8 then Pelon and I went to get the gun from there. And I told
9 Pelon to say that he had the gun at his house but that I would
09:56AM 10 keep it in my house so that no one would know that I had the
11 gun. Later on, I told them that I had the gun in my house.

12 Q. All right. That's my point. Did you talk about the fact
13 that you had the gun with other members of the clique?

14 A. Yes.

15 Q. So, I want to talk -- let me start this way. At some
16 point after you arrived in Boston, all right, you were
17 deported, correct?

18 A. Yes.

19 Q. And when was that?

09:57AM 20 A. In 2009.

21 Q. All right. So I want to ask you about incidents that you
22 were involved in before you were deported.

23 A. Okay.

24 Q. You've talked about the mission of MS-13?

25 A. Yes.

1 Q. And did you -- before the time that you were deported, did
2 you commit any violent assaults with members of the Eastside
3 clique?

4 A. Yes.

5 Q. Okay. Do you remember one that involved a beer bottle?

6 MR. MURPHY: Objection, your Honor. Leading.

7 THE COURT: I'll allow that. Overruled.

8 Q. Do you remember one that involved beer bottles?

9 A. Yes.

09:59AM 10 Q. Okay. And what can you -- what do you remember about that
11 assault?

12 A. At that time I lived in Maverick by -- in Everett, and we
13 had talked with Playa that we were going to go hang out with
14 the dudes in Revere, and Playa said that, yeah, that he would
15 come pick me up so that we could go there. So he picked me up,
16 and before we left Boston going towards Revere under some
17 bridges there, I saw a chavala walking all dressed in red, and
18 I said to Playa, that's another bitch, it is a chavala, we have
19 to attack him. And we had some beer bottles, like Heinekens
10:00AM 20 that we were drinking, and so I told Playa to pull over to one
21 side of the street, and I got out of the car, and I chased the
22 chavala and I yelled to him, "What's up? This is
23 Mara Salvatrucha."

24 So when that guy heard that, he tried to run away
25 under the bridges, and I chased him until I caught him, and I

1 smashed his face with a bottle. He was on the floor when Playa
2 came, and he also had a beer bottle and he also smashed it in
3 his face. And we started kicking the guy and the guy was just
4 trembling there, and so then we ran back to the car and we went
5 to Revere.

6 Q. Did you see the man on the ground after you and Playa had
7 smashed his face with beer bottles?

8 A. Yes.

9 Q. What did he look like?

10:02AM 10 A. He was all bloody. He was covered in blood. I just saw
11 the guy shaking.

12 Q. You said that the man you and Playa attacked was wearing
13 red?

14 A. Yes.

15 Q. Okay. Why is the color red significant?

16 A. Because only chavalas use red.

17 Q. Does MS-13 have particular colors?

18 A. Yes.

19 Q. And what are those?

10:02AM 20 A. It's the MS color is blue and white.

21 Q. I'm not going to approach, but I'm just going to hold up
22 what's been introduced as Exhibit 94, the red shirt.

23 A. Yes.

24 Q. Is this the kind of thing that a chavala would wear?

25 A. Yes.

1 Q. Do you recall an incident involving chavalas on a bus?

2 A. Yes.

3 Q. And what do you remember about that?

4 A. We were hanging out at Checha's house, and the dude that
5 was called Gaspirin called, he called Renegado and asked --

6 MR. NORKUNAS: Objection.

7 THE COURT: I'm sorry.

8 MR. NORKUNAS: I have any objection to any content of
9 any telephone call received.

10:04AM 10 THE COURT: All right.

11 MR. POHL: I can ask another question. Thank you,
12 your Honor.

13 Q. So there was a telephone call that came in. Now, let me
14 ask you another question. After the phone call came in --

15 THE INTERPRETER: I'm sorry.

16 Q. After the phone call came in, what did you do next?

17 A. Gaspirin called Renegado and asked him where he was.

18 THE COURT: Again, I'll ask the witness not to talk
19 about the content of the phone call but what happened after the
10:04AM 20 call.

21 Q. So the phone call came in, then the phone call ended,
22 okay. And after the phone call ended, what happened next?

23 A. Gaspirin wanted to come to the house where we were hanging
24 out, and so he told that guy.

25 MR. NORKUNAS: Objection.

1 THE COURT: Well, sustained.

2 MR. POHL: Thank you, your Honor.

3 Q. All right. Let me do it this way, Mr. Hernandez Miguel.

4 Okay. After the phone call is done -- well, let me ask you
5 this. When the phone call comes in, where are you, not what
6 was said, just where were you?

7 A. We were at Checha's house.

8 Q. Okay. Then the phone call comes in and the person who
9 answers the phone is also at Checha's house, he's also at
10:06AM 10 Checha's house?

11 A. Yes.

12 Q. And the person who answers the phone is who?

13 A. I don't understand.

14 Q. Who is the person that gets the phone call?

15 A. Renegado.

16 Q. Okay. Now, the phone call ends. So after the phone call
17 ends, what do you do?

18 A. Gaspirin said to go wait in Maverick because there was
19 some chavalas --

10:06AM 20 MR. LOPEZ: Move to strike.

21 MR. NORKUNAS: Move to strike.

22 THE COURT: Sustained. Let me try to explain to the
23 witness. I don't want you to say what Gaspirin said. I want
24 you to talk about what you did after Renegado got the call,
25 okay, so ask another question.

1 Q. I'm going to take Judge Saylor's question. What did you
2 do after you got that phone call?

3 A. I went to find, to meet with Gaspirin.

4 Q. Okay. Where was that?

5 A. At Maverick.

6 Q. And when you say Maverick, what do you mean exactly?

7 A. On Chelsea Street is Maverick. That's where the station
8 is, the Maverick Station.

9 Q. The T station?

10:07AM 10 A. Yes.

11 Q. Okay. And how close is Checha's house to the T station in
12 Maverick?

13 A. About two blocks.

14 Q. Okay. And so you went to the T station?

15 A. Yes.

16 Q. Who went with you?

17 A. Loquillo was there, Checha, and Renegado.

18 Q. Why were you at the Maverick T Station?

19 MR. NORKUNAS: Objection, Judge.

10:08AM 20 THE COURT: Sustained. Isn't that going to get us
21 right back to where we --

22 Q. Well, when you got to the T station, what happened next?

23 A. When we got to the train station, the chavalas did not get
24 off, they stayed on the bus. So the dude got out, and we
25 started walking back, and as we were walking back, we met up

1 with Caballo. He asked us what we were doing there, and we
2 told him that --

3 MR. NORKUNAS: Objection.

4 A. -- supposedly --

5 MR. POHL: Why don't you put another question.

6 THE COURT: Okay.

7 Q. So you were walking, and you told him what you were doing
8 there?

9 A. Yes.

10:09AM 10 Q. What's the next thing that you did?

11 A. As we were walking back, there were two kids, two chavalas
12 walking because we were walking with two dudes on one side of
13 the street and two dudes on the other side of the street. So
14 when we saw the two kids walking towards us dressed in red, we
15 flashed the MS sign, and when we flashed the MS sign, they
16 started running.

17 MR. NORKUNAS: The question --

18 THE COURT: I think the question was what's the next
19 thing that you did.

10:10AM 20 Q. You flashed the MS sign at them?

21 A. Yes.

22 Q. Okay. What sign did you flash?

23 A. Like this, La Mara. (Indicating)

24 Q. And after you flashed that sign, what did the chavalas do?

25 A. One ran away, one ran towards the back, and one tried to

1 cross the street. We followed the one that tried to cross the
2 street, and we got him in the middle of the street. That's
3 when we started beating him up.

4 Checha had a machete, I had a bat, Renegado had a
5 knife, and Loquillo did as well. And as we were beating up
6 that guy, a taxi drove by, and he started honking at us to let
7 him go. After that happened, we ran to -- we ran away to
8 Checha's house, and that's when Checha said there was blood --

9 MR. NORKUNAS: Objection, your Honor.

10:11AM 10 THE COURT: Hold on. Let's put another question.

11 MR. POHL: All right.

12 Q. All right. You said you went back to Checha's house?

13 A. Yes.

14 Q. Who's we? Who went back to Checha's house?

15 A. All of us.

16 Q. You, Checha, Renegado, Loquillo?

17 A. Yes, and Gaspirin also was with us.

18 Q. All right. So let me ask you this. Did the police come
19 to Checha's house?

20 A. Yes. They started knocking on the door, so we turned off
21 all the lights and stayed really quiet inside, and a woman was
22 knocking at the door and talking. And since no one made any
23 noise inside and no one opened the door, somebody else was sent
24 to knock on the door, but since no one opened the door, they
25 stayed outside. I think they were detectives.

1 Q. So how long -- well, let me ask you this. Eventually that
2 night, did you leave Checha's house?

3 THE INTERPRETER: I'm sorry.

4 Q. Did you leave Checha's house?

5 A. One-by-one ran away.

6 Q. Okay. Do you remember how you -- do you remember how you
7 left Checha's house or how you got away from Checha's house?

8 A. Yes.

9 Q. How was that?

10:13AM 10 A. I called Playa and told him what had happened and that the
11 area was hot. So Playa told me to call a taxi and that he
12 would pay for it, so I called the taxi and I told the taxi to
13 take me over to Eastern Avenue in Chelsea. There's a car wash
14 there and Playa picked me up there.

15 Q. Mr. Hernandez Miguel, do some MS members have tattoos?

16 A. Yes.

17 Q. Are there rules for -- in MS-13 for what -- for who can
18 have a tattoo?

19 A. Yes.

10:14AM 20 Q. So -- and are there rules for who can wear the colors of
21 MS-13?

22 A. If he's a homeboy, he can use it.

23 Q. Okay. He can use what?

24 A. The colors of the blue, the white, the Nike Cortez.

25 Q. What's the significance of the Nike Cortez?

1 A. Supposedly only gang members can use Nike Cortez because
2 allegedly Nike Cortez was invented by a gang member in L.A.

3 Q. What are the rules for when an MS-13 member can get a
4 tattoo?

5 A. Well, he has to have done something, something else for
6 the MS after he's been jumped in to gain further respect from
7 the homeboys.

8 Q. All right. When you were arrested in this case, did you
9 have an MS-13 tattoo?

10:16AM 10 A. Yes.

11 MR. POHL: Exhibit 15 for the witness only, Madam
12 Clerk. Thank you.

13 Q. Do you see that, Mr. Hernandez Miguel?

14 A. Yes.

15 Q. Is that you?

16 A. Yes.

17 Q. Do you have a tattoo on your chest?

18 A. Yes.

19 Q. Okay. Is that how -- is that picture of your chest
10:17AM 20 accurate as to how you looked when you were arrested in this
case?

21 A. Yes.

22 MR. POHL: I'd offer 15, your Honor.

23 THE COURT: All right. It's admitted.

24 (Exhibit No. 15 received into evidence.)

1 Q. I've blown up a section of Exhibit 15. What is this,
2 Mr. Hernandez Miguel?

3 A. The M and the S.

4 Q. Did you -- when did you get that tattoo?

5 A. Towards the end of 2013.

6 Q. And where did you get the tattoo?

7 A. One day I went to hang out at Risi's house and Parine was
8 there, he's the one that does the tattoos, and he was, in fact,
9 doing, making tattoos there. I was drinking, and I asked him,
10:18AM 10 "Hey, what's up, can you do the MS for me?" But first I had to
11 ask permission to do it. I had to ask permission.

12 Q. From who?

13 A. From the runners of my clique.

14 Q. And who is that?

15 A. Casper and Playa, and they told me that --

16 MR. LOPEZ: Objection, your Honor.

17 THE COURT: Overruled.

18 A. -- to go ahead and do it.

19 Q. Mr. Hernandez Miguel, are there other members of the
10:18AM 20 Eastside clique that have MS-13 tattoos?

21 A. Yes.

22 Q. And have you seen those tattoos?

23 A. Yes.

24 Q. You'd recognize them if you saw them?

25 A. Yes.

1 MR. POHL: For the witness, Madam Clerk. Thank you.

2 Q. I'm putting up what is marked as Exhibit 126. Do you
3 recognize those?

4 THE INTERPRETER: I'm sorry, what was the question?

5 Q. Do you recognize those photographs, Mr. Hernandez Miguel?

6 A. Yes.

7 Q. And what do you recognize it as?

8 A. They're like two cholos flashing MS.

9 Q. Okay. And do you know who has this tattoo?

10:20AM 10 A. Yes.

11 Q. Who?

12 A. Casper.

13 MR. POHL: I'd offer 126.

14 THE COURT: All right. It's admitted, 126.

15 (Exhibit No. 126 received into evidence.)

16 Q. Mr. Hernandez Miguel, what are we looking at here? Let's
17 start with the left-hand picture first.

18 THE INTERPRETER: I'm sorry.

19 Q. Let's start with the picture on the left-hand side.

10:20AM 20 A. This one here?

21 Q. Yes.

22 A. That's the M.

23 Q. You're making a motion with your hand, but it's down low.
24 Can you pull up your hands?

25 A. He's flashing it like this, the M.

1 Q. Is that it?

2 A. Yes.

3 Q. Thank you. All right. Let's go to the right. First,
4 let's start with the figure. Do you see what that person is
5 doing?

6 A. Yes.

7 Q. What is it?

8 A. It's the S.

9 Q. I've blown it up for the record. Do you see the S there?

10:21AM 10 A. Yes.

11 Q. All right. There's also -- I want to look at the left
12 hand -- there's a marking on the other side of the figure,
13 okay. Do you recognize those? Do you recognize that?

14 A. Yes.

15 Q. What is it?

16 A. That's the Eastside clique.

17 Q. ESLS?

18 A. Yes.

19 MR. POHL: For the witness only, Madam Clerk.

10:22AM 20 Q. I'm putting up what's been marked as Exhibit 16. Do you
21 recognize this?

22 A. Yes.

23 Q. How do you recognize it?

24 A. It's a 13.

25 Q. And who has that tattoo?

1 A. Playa.

2 MR. POHL: I'd offer 16.

3 THE COURT: All right. It's admitted, Exhibit 16.

4 (Exhibit No. 16 received into evidence.)

5 Q. Mr. Hernandez Miguel, can you tell me what we're looking
6 at here with Playa's tattoo?

7 A. On the bottom is Number 13 and above that is a cross with
8 hands like this. (Indicating)

9 Q. And above that?

10:23AM 10 THE INTERPRETER: I'm sorry.

11 Q. And above that?

12 A. Above that it's like a dude had died, and that's why that
13 was made.

14 MR. POHL: For the witness only, 17.

15 Q. Do you see that, Mr. Hernandez Miguel? It's been marked
16 as Exhibit 17.

17 A. Yes.

18 Q. Okay. Do you recognize the tattoo in that photograph?

19 A. Yes.

10:24AM 20 Q. What is it?

21 A. Also the Eastside clique.

22 Q. Okay. Do you remember who had that tattoo?

23 A. Yes.

24 Q. Who?

25 A. Brujo.

1 MR. POHL: I'd offer 17.

2 THE COURT: All right. It's admitted.

3 (Exhibit No. 17 received into evidence.)

4 Q. This is Brujo's tattoo?

5 A. Yes.

6 Q. And who is Brujo?

7 A. He's a member of Eastside clique.

8 Q. All right. You testified earlier that in 2009 you got
9 deported?

10:25AM 10 A. Yes.

11 Q. When you were arrested by immigration and deported, where
12 were you deported back to?

13 A. To El Salvador.

14 Q. Where did you go when you were deported back to
15 El Salvador?

16 A. La Union.

17 Q. Why did you go there?

18 A. Because that's where my family lives.

19 Q. While you were in El Salvador, did you have contact with
10:25AM 20 members of the Eastside clique?

21 A. Yes.

22 Q. Who?

23 A. With Casper, Playa, Loquillo, and there were other dudes
24 as well.

25 Q. Did you ever receive anything from members of the Eastside

1 clique while you were in El Salvador?

2 A. From the Eastsides.

3 Q. Yes.

4 A. Yes.

5 Q. What?

6 A. Money. They also sent me money to buy a gun so that I
7 would have my personal one because I had told them that I had a
8 problem and that someone had tried to kill me, so that's why.

9 Q. Okay. So how did you get the money?

10:27AM 10 A. It was sent to me by them through Western Union.

11 Q. Okay. And when you got the money, did you use it to buy a
12 gun?

13 A. Yes, I bought a gun.

14 MR. LOPEZ: Objection, your Honor, move to strike
15 whatever that was. There's no question before him.

16 THE COURT: All right. Let's put another question to
17 him.

18 MR. POHL: Thank you, your Honor.

19 Q. Mr. Hernandez Miguel, how long did you stay in
10:27AM 20 El Salvador?

21 A. About two years.

22 Q. What happened after you -- well, what happened next?

23 A. I came back here.

24 Q. Okay. How did you come back to the United States?

25 A. Well, first I crossed Guatemala, then I crossed into

1 Mexico, and over there around Piedras Negras. I got a coyote
2 only to cross the border.

3 Q. Does a coyote cost money?

4 A. Yes.

5 Q. And how much money was the coyote asking for to get you
6 across the border from Mexico to the United States?

7 A. \$3,500.

8 Q. Did you have \$3,500?

9 A. I didn't have the whole amount, but my sister was the one
10:29AM 10 that was going to pay, so I asked her to do a three-way for me
11 so that I could talk with the dudes from the clique.

12 Q. Did that happen?

13 A. Yes.

14 Q. Maybe everybody knows, but what's a three-way call?

15 A. Well, I called my sister, and I told her to dial a number
16 that was one of the dude's number.

17 Q. Do you remember who that was?

18 A. Yes.

19 Q. Who was it?

10:30AM 20 A. Playa.

21 Q. Why did you want your sister to call Playa?

22 A. Because Playa was the one in charge of the money, and he
23 was also one of the runners.

24 Q. Okay. And what happened -- well, did you speak to Playa
25 through that three-way call?

1 A. Yes.

2 Q. Okay. What did you say to Playa?

3 MR. LOPEZ: Your Honor, could we have a time frame on
4 this call?

5 MR. POHL: Sure.

6 Q. So you were deported in 2009, right?

7 A. Yes.

8 Q. And you said you stayed in El Salvador about two years?

9 A. Yes.

10:31AM 10 Q. Would it be fair to say that this is an approximation by
11 you? It's approximately two years?

12 A. Yes.

13 Q. Okay. And then approximately two years after you were
14 deported, you came back to the United States?

15 A. Yes.

16 Q. When you got to the border is when you met the coyote?

17 When you got to the border, the Mexican-U.S. border is when you
18 met the coyote?

19 A. Yes.

10:31AM 20 Q. And that's when you had the three-way call with Playa?

21 A. Yes.

22 Q. Okay. Now, what did you say to Playa on the call?

23 A. Well, that I was on the border and to tell the dudes that
24 I needed help in order to cross.

25 Q. Okay. How -- what kind of help did you need?

1 A. Money.

2 Q. How much money did you need to pay the coyote?

3 A. I needed \$1,000 more.

4 Q. Okay. What did Playa say to you?

5 A. Playa told me he would speak with a couple of dudes
6 because there wasn't a lot of money in the box but that he
7 would speak with a couple of dudes to do me the favor because
8 they didn't know that I was on my way already.

9 Q. All right. After that conversation, what happened?

10:32AM 10 A. Playa took \$1,000 to my sister.

11 Q. And how did that money get to you?

12 A. Well, since it was clique money and the clique has a rule
13 that if a dude is deported to El Salvador and he's a member of
14 the Eastsides, that the clique is obliged to bring him back to
15 the United States.

16 Q. So, I think you said Playa gave your sister money?

17 A. Yes.

18 Q. Okay. And what happened with that money? Where did that
19 money go?

20 A. It was with that money that we paid the coyote to cross
21 me.

22 Q. Okay. Where did you cross from Mexico back into the
23 United States, Mr. Hernandez Miguel?

24 A. At Piedras Negras.

25 Q. Where is that?

1 A. It's on the border in Mexico.

2 Q. Okay. Once you got back into the United States, where did
3 you go?

4 A. I came here to East Boston.

5 Q. And what happened when you got back?

6 A. I came back on a Thursday and then the dudes had a meeting
7 on that Sunday or Saturday and so I -- that's when I returned.

8 Q. Okay. And when the dudes had a meeting, do you remember
9 where that was?

10:35AM 10 A. At Chucho's.

11 Q. Okay. Who was there?

12 A. Casper was there, Playa, Checha, Chucho, Caballo was
13 there, and there were other dudes.

14 Q. Okay. So once you came back and had that meeting, did you
15 again begin to meet with the Eastside clique?

16 A. Yes.

17 Q. Now, before you were deported and when you were going to
18 Eastside meetings, had the members of the Eastside clique
19 jumped you in and made you a member?

10:36AM 20 A. No.

21 Q. Okay. And why was that?

22 A. Because I already belonged to a clique in L.A., and you
23 can't be jumped in twice.

24 Q. But when you came back this time after you had been
25 deported and you again began to meet with the members of the

1 ESLS, did they do anything to you then?

2 A. Yes.

3 Q. And what was that?

4 A. Because since I had a clique in L.A. and I had asked them
5 for help while I was in El Salvador and I was told that most of
6 them had already been deported and that I had permission if I
7 wanted to jump into a different clique.

8 Q. Did you do that?

9 A. Yes.

10:37AM 10 Q. What clique did you jump into?

11 A. Eastsides.

12 Q. Where were you jumped in?

13 A. In Cambridge near where some movie theaters are in a big
14 parking lot. We always had meetings there in the summertime.

15 Q. So, tell me about that. Tell me about how you got beat
16 into the Eastside clique.

17 A. We got to the meeting, and I was told that they were going
18 to leave me like that, that they weren't going to beat me, that
19 they were just going to make like I was already jumped in.

10:38AM 20 But there was a dude there that had been jumped into
21 the Fultons. He was called Risi. He also has the word with
22 the Eastsides here. And he said that it wouldn't look good if
23 I wasn't beaten into the jump-in, that I had to be jumped in
24 again, and so that's what happened, and I was jumped in again.

25 Q. Okay. Who beat you during your jump-in?

1 A. Flecha, Caballo, and Risi.

2 Q. And when someone is jumped in, they count to 13?

3 A. Yes.

4 Q. Do you remember who counted during your jump-in to the
5 Eastside clique?

6 A. Yes.

7 Q. Who was that?

8 A. Casper.

9 Q. How often did you -- when you got back into the Eastside
10:40AM 10 clique, when you came back after you had been deported, how
11 often did you meet with the members of the Eastside clique?

12 A. On the weekends, and if there was the opportunity, during
13 the week as well.

14 Q. And --

15 MR. POHL: Can I have Exhibit 1 for the witness, which
16 is admitted.

17 Q. Do you recognize this, Mr. Hernandez Miguel?

18 A. Yes.

19 Q. What is it?

20 A. That's the garage, by the garage in Everett where we used
21 to hang out.

22 MR. POHL: Okay. This is 1.2.

23 Q. Is that the garage?

24 A. That's the garage.

25 Q. Okay. So, do you remember when you -- well, you said

1 that's where you and the members of the clique used to hang
2 out. What exactly did you do at this garage?

3 A. We had the meetings there.

4 Q. Do you remember when you began -- first began to have
5 meetings at the garage in Everett?

6 A. No.

7 Q. Okay. Was it after you came back to the United States
8 from being deported?

9 A. Yes.

10:41AM 10 Q. I think you said yesterday that you had met Casper, Playa
11 and Checha before you were deported, correct?

12 THE INTERPRETER: Could you repeat the question for
13 the interpreter?

14 MR. POHL: Of course.

15 Q. I think you testified yesterday that you had met Casper,
16 Playa, and Checha before you were deported?

17 A. Yes.

18 MR. POHL: And if I could have Exhibit 5.

19 Q. Lobo?

10:42AM 20 A. That's Lobo.

21 Q. Okay. When did you meet Lobo?

22 A. I met him around 2013.

23 Q. Where did you meet him?

24 A. I hardly hung out with him when he was running with the
25 dudes. I met him after he was jumped in. That's when I got to

1 know him better because Lobo was run by Casper and Playa.

2 Q. Were you present when Lobo was jumped into the clique?

3 A. No.

4 Q. Okay. Was it your understanding that he was jumped in
5 before you came back to the United States?

6 MR. IOVINO: Objection, your Honor. Leading.

7 THE COURT: Overruled.

8 A. No, he was jumped in when I was here.

9 Q. Okay. You just weren't at the meeting?

10:44AM 10 A. It wasn't at a meeting. Suddenly I found out that -- they
11 told me that Lobo had jumped in, and I didn't know who Lobo
12 was.

13 Q. And that's when you met him?

14 A. Yes.

15 MR. POHL: Can I have Exhibit 19 for the witness.

16 Q. Do you see that, Mr. Hernandez Miguel?

17 A. Yes.

18 Q. What is that?

19 A. It's Lobo.

10:44AM 20 THE CLERK: 19 is in.

21 Q. Is there somebody with Lobo in the picture?

22 A. Yes.

23 Q. Is that?

24 A. Lablita.

25 Q. Who is Lablita?

1 A. She used to hang out with the dudes.

2 MR. POHL: I'd offer this as Exhibit 19.

3 MS. LAWRENCE: It was in yesterday.

4 THE COURT: It's already admitted.

5 Q. Mr. Hernandez Miguel, the hand gestures, do you recognize
6 those in the photograph?

7 A. Yes.

8 Q. What is it?

9 A. He's flashing the MS.

10:45AM 10 Q. Mr. Hernandez Miguel, did you -- when you were back from
11 being deported and had rejoined the ESLS clique, did you meet
12 an individual that you knew as Pelon?

13 A. Yes.

14 Q. Do you remember when you first met Pelon?

15 A. Around 2013.

16 Q. And do you remember where you met him?

17 A. I met him through Vincentino.

18 Q. When you met Pelon in 2013 through Vincentino, did you
19 spend time with him?

20 A. Yes.

21 Q. And how often would you see Pelon?

22 A. Every day.

23 Q. And would Pelon be with other members from the Eastside
24 clique?

25 A. Yes, I started taking him to hang out with the dudes.

1 Q. When you were getting to know Pelon, would there be times
2 when Pelon would go to buy drugs?

3 A. Yes.

4 Q. Did you and Pelon ever talk about -- well, let me strike
5 that. When Pelon would go to buy drugs, was there ever a time
6 when you introduced him to a drug dealer you knew?

7 THE INTERPRETER: I'm sorry, could you repeat this?

8 Q. Was there a time when you introduced Pelon to a drug
9 dealer you knew?

10:48AM 10 A. Yes.

11 Q. Who was that?

12 A. Gordo.

13 Q. Who's Gordo?

14 A. His name was Cesar Martinez.

15 Q. And what did Gordo sell?

16 A. Excuse me. His name was Manuel Martinez.

17 Q. What did -- did you use his nickname or street name of
18 Gordo?

19 A. Yes.

10:48AM 20 Q. That's how you knew him?

21 A. Yes.

22 Q. All right. Did you know what Gordo -- what kind of drugs
23 did Gordo sell?

24 A. Cocaine.

25 Q. How did you know that?

1 A. Because he was introduced to me by Checha.

2 MR. LOPEZ: Objection, your Honor. There's no
3 question. The question was who introduced you, he answered it,
4 then he kept talking.

5 THE COURT: All right. Put another question to him.

6 MR. POHL: Thank you, your Honor.

7 Q. All right. You introduced Pelon to Gordo, correct?

8 A. Yes.

9 Q. And there were times when Pelon went to buy drugs,
10:49AM 10 correct?

11 A. Yes.

12 Q. Sometimes from Gordo?

13 A. Yes.

14 Q. Sometimes from other people?

15 A. Yes.

16 Q. Were there times when you went with Pelon to buy drugs?

17 A. Yes.

18 Q. Okay. Why did you go with Pelon on those drug purchases?

19 A. Because I went with Pelon because Pelon had the money, so
10:50AM 20 I would go to protect him so that he wouldn't get robbed. And
21 just to go with him to protect him, he would pay me.

22 Q. So, I want to make sure I understand how that worked.

23 Pelon would go buy drugs?

24 A. Yes.

25 Q. You went with him?

1 A. Yes.

2 Q. To meet with the drug dealer?

3 A. Yes.

4 Q. And were you present for those meetings?

5 A. Always.

6 Q. Okay. Pelon bought the drugs?

7 A. Yes.

8 Q. Pelon paid the drug dealer the money for the drugs?

9 A. Yes.

10:51AM 10 Q. Okay. And then Pelon paid you?

11 A. Yes.

12 Q. So about how much would you make for going to protect
13 Pelon during these drug buys?

14 A. \$100.

15 Q. How many times did you do that?

16 A. Six or seven times.

17 Q. After you had done that six or seven times, did you have
18 an opportunity -- well, did you and Pelon discuss protecting a
19 drug shipment, protecting a drug shipment?

10:52AM 20 A. Yes.

21 Q. All right. What can you tell the jury about that?

22 MR. NORKUNAS: Objection, Judge. Open-ended question.

23 THE COURT: I'll allow it.

24 MR. POHL: I can ask a better question, Judge. That's
25 fine, thank you.

1 Q. Mr. Hernandez Miguel, were there times in 2014 where you
2 met with Pelon and traveled from Massachusetts to
3 New Hampshire?

4 A. Yes.

5 Q. Okay. And when you met with Pelon to go from
6 Massachusetts to New Hampshire, what did you do?

7 A. We used to meet to plan how much he was going to pay, what
8 was the amount of drugs going, and how many people we needed to
9 go there.

10:53AM 10 Q. Okay. And on these trips to New Hampshire from
11 Massachusetts, did you and Pelon go by yourself?

12 A. No.

13 Q. Who went with you?

14 A. The first time Checha went.

15 Q. All right. So Mr. Hernandez Miguel, before I ask you
16 anything else, I'm going to show you --

17 MR. POHL: Can I have the document camera for the
18 witness, just for the witness. Thank you.

19 Q. All right. So, Mr. Hernandez Miguel, I'm going to put up
10:54AM 20 a series of disks and ask you if you recognize them. But
21 before I do, I want to ask you how -- when do you remember
22 meeting -- approximately the year that you met Casper for the
23 first time?

24 A. The first time was around 2004.

25 Q. Okay. And you came to Boston to stay around 2007?

1 A. Yes.

2 Q. At least before you were deported?

3 A. Yes.

4 Q. All right. So beginning in 2007, I know there's a
5 two-year period where you were back in El Salvador, but from
6 2007 until the time you were arrested in this case, how many
7 times have you spoken to Casper?

8 A. Thousands of times for hours, days, weeks.

9 Q. You've talked to him in person?

10:55AM 10 A. Yes.

11 Q. You've spoken to him on the phone?

12 A. Yes.

13 Q. Okay. Have you spoken to him in clique meetings?

14 A. Yes.

15 Q. Has he spoken to you in clique meetings?

16 A. Yes.

17 Q. Have you been to his -- have you been in his car?

18 A. Yes.

19 Q. Are you familiar with his voice?

10:56AM 20 A. 100 percent.

21 Q. What about Playa? So, let's start in 2007. And, again, I
22 know there's this two-year gap when you were back in
23 El Salvador, but how many times have you spoken to Playa?

24 A. Many times.

25 Q. Have you met with Playa?

1 A. Yes.

2 Q. Has he spoken at clique meetings?

3 A. Yes.

4 Q. Have you spoken to him on the phone?

5 A. Yes.

6 Q. And had you spoken to him up to the time when you were
7 arrested in this case?

8 A. Yes.

9 Q. Okay. What about Checha? Again, in 2007, have you spoken
10:57AM 10 to Checha?

11 A. I met Checha around 2008.

12 Q. Okay. And how often have you spoken to Checha?

13 A. Oh, every week or during weeks and also we used to go and
14 hang out together.

15 Q. So, you spent time with him?

16 A. Yes.

17 Q. You've talked to him?

18 A. Yes.

19 Q. In person?

10:58AM 20 A. Yes.

21 Q. And on the phone?

22 A. Yes.

23 Q. And are you familiar with his voice?

24 A. Yes.

25 Q. Okay. Now, Lobo you met when you came back to the

1 United States, correct, after you came back to the
2 United States?

3 A. Yes.

4 Q. And, in fact, you met him after he had been jumped into
5 the clique?

6 A. Yes.

7 Q. Okay. So you've known him a shorter amount of time than
8 the other three; than Casper, Playa, and Checha?

9 A. Yes.

10:58AM 10 Q. How much time have you spent -- have you talked to Lobo?

11 A. Yes.

12 Q. Okay. How often have you spoken to Lobo?

13 A. I used to call him like every week or sometimes if you
14 need a favor, you call every two days. One is always obliged
15 to be checking in with the dudes.

16 Q. So, again, you have spoken to Lobo?

17 A. Yes.

18 Q. You've met with Lobo?

19 A. Yes.

10:59AM 20 Q. In person?

21 A. Yes.

22 Q. And you've spoken to him on the phone?

23 A. Yes.

24 Q. Many times?

25 A. Yes.

1 Q. You're familiar with his voice?

2 A. Yes.

3 Q. All right. So, Mr. Hernandez Miguel, after you were
4 arrested in this case, you were asked to listen to some
5 recordings, correct?

6 A. Yes.

7 Q. Okay. So I want to ask you about that. Where would you
8 listen to the recordings?

9 A. Here.

11:00AM 10 Q. Okay. In a room here in this building?

11 A. Yes.

12 Q. Okay. And who was there with you when you were listening
13 to the recordings?

14 A. With Deborah and two agents from the FBI always and
15 sometimes the prosecutor and sometimes Ms. Kelly as well.

16 Q. All right. Was there anything else in the room that you
17 used to listen to the recordings?

18 A. I don't understand the question.

19 Q. Was there a laptop computer in the room?

11:01AM 20 A. Yes.

21 Q. Okay. And would you listen to the recordings through the
22 laptop?

23 A. Yes.

24 Q. And were some of the recordings just voices?

25 A. Yes.

1 Q. Were some of the recordings video recordings?

2 A. Yes.

3 Q. Okay. Have you done that, listened to those recordings
4 over many days?

5 A. Yes.

6 Q. Okay. And as you were listening to the recordings, would
7 you be asked -- were you asked to do anything?

8 A. Every time I listened to the recordings, I didn't always
9 understand everything, so I listened many times to the
11:02AM 10 recordings.

11 Q. Okay. And was one of the things that you were listening
12 for to try to identify who the speakers were?

13 A. Yes.

14 Q. Okay. And was that something you did with Deborah, with
15 Ms. Huacuja?

16 A. Yes.

17 Q. She would ask you who was speaking?

18 A. Yes.

19 Q. If you recognized the voice, would you answer?

11:03AM 20 A. Yes.

21 Q. And what would you answer?

22 A. The name of the person who was speaking.

23 Q. When you were -- when you had listened to a recording and
24 you had done that process, asked who was speaking and you
25 answered, did you do anything to the disk of the recording?

1 A. Yes.

2 Q. What was that?

3 A. I put my initials.

4 Q. Okay. All right. I'm going to put up for the witness
5 what's been premarked as Exhibit 200. This is a recording from
6 January 25, 2014. Do you see that disk, Mr. Hernandez Miguel?

7 A. Yes.

8 Q. And did you listen to that disk?

9 A. Yes.

11:04AM 10 Q. How do you know you listened to the disk?

11 A. It has my initials on it.

12 Q. Okay. And when you listened to the disk, did you do the
13 process that we just discussed?

14 A. Yes.

15 MR. POHL: Your Honor, Disk 200 goes with transcript
16 Exhibit Number 20 and I'd move in Exhibit 20.

17 THE COURT: Exhibit 20?

18 MR. POHL: Yes.

19 THE COURT: That's the English transcript?

11:04AM 20 MR. POHL: Correct.

21 MR. IOVIENO: Objection for the record, your Honor.

22 THE COURT: All right. Overruled. It's admitted.

23 (Exhibit No. 20 received into evidence.)

24 Q. Mr. Hernandez Miguel, I'm going to put up what's been
25 marked as Exhibit Number 201. Do you see that?

1 A. Yes.

2 Q. Okay. Did you review that disk?

3 A. Yes.

4 Q. How do you know?

5 A. It has my initials on it.

6 Q. Okay. And that is a recording from February 16, 2014.

7 You did the same process we discussed earlier, you did that on
8 this tape?

9 A. Yes.

11:05AM 10 Q. Identified the speakers?

11 A. Yes.

12 MR. POHL: Your Honor, the corresponding English
13 transcript to Exhibit Number 201 is Exhibit Number 119. I'd
14 move that into evidence.

15 MR. IOVIEENO: Objection.

16 THE COURT: All right. Overruled. It's admitted,
17 119.

18 (Exhibit No. 119 received into evidence.)

19 Q. Mr. Hernandez Miguel, I'm going to put up Exhibit 203,
11:06AM 20 which is a disk of a recording from February 8, 2015. Do you
21 recognize that disk?

22 A. Yes.

23 Q. Did you listen to that recording?

24 A. Yes.

25 Q. How do you know?

1 A. It has my initials on it.

2 MR. POHL: Your Honor, the corresponding transcript to
3 Disk 203 is Exhibit Number 23, and I'd move that into evidence.

4 MR. IOVINO: Objection.

5 THE COURT: Overruled. It's admitted, 23.

6 (Exhibit No. 23 received into evidence.)

7 Q. Mr. Hernandez Miguel, I'm putting up Disk Number 204,
8 which is a disk of a recording from March 29, 2015. Did you
9 review that disk?

11:06AM 10 A. Yes.

11 Q. How do you know?

12 A. It has my initials on it.

13 Q. Thank you.

14 MR. POHL: Your Honor, the corresponding English
15 transcript to Disk Number 204 is Exhibit Number 24, and I'd
16 move that into evidence.

17 MR. IOVINO: Objection.

18 THE COURT: It's admitted. Overruled.

19 (Exhibit No. 24 received into evidence.)

11:07AM 20 THE COURT: I'll give you a standing objection to
21 these transcripts.

22 MR. IOVINO: Thank you, your Honor.

23 Q. Mr. Hernandez Miguel, I'm putting up Exhibit Number 205.
24 Do you recognize that?

25 A. Yes.

1 Q. Did you review that recording during your -- prior to your
2 testimony here today?

3 A. Yes.

4 Q. Okay. That's of a recording that took place on August 31,
5 2015?

6 A. Yes.

7 MR. POHL: Your Honor, the corresponding English
8 transcript to Disk Number 205 is Exhibit Number 27, and I'd
9 move that in.

11:07AM 10 THE COURT: It's admitted, 27.

11 (Exhibit No. 27 received into evidence.)

12 Q. Mr. Hernandez Miguel, I am showing you Disk Number 207,
13 which is a recording from January 8, 2016. Did you review that
14 recording before your testimony here today?

15 A. Yes.

16 Q. How do you know?

17 A. It has my initials on it.

18 Q. Okay.

19 MR. POHL: The English transcripts for Disk
11:08AM 20 Number 207, your Honor, are both Exhibit Number 31 and then an
21 excerpt at Exhibit Number 122. I'd move both of those into
22 evidence.

23 THE COURT: They're admitted, 31 and 122.

24 (Exhibit Nos. 31 and 122 received into evidence.)

25 Q. Okay. Mr. Hernandez Miguel, when you were reviewing the

1 recordings, am I correct that on many of the recordings, you
2 were present for the meetings that were recorded?

3 A. Yes.

4 Q. Or the conversations that were recorded?

5 THE INTERPRETER: I'm sorry.

6 Q. Or the conversations that were recorded?

7 A. Yes.

8 Q. All right. Were you asked sometimes to listen to voices
9 of recordings where you were not physically present for the
11:09AM 10 meeting or the conversation?

11 A. Yes.

12 Q. Okay. I'm going to put up a disk that's been marked 208.

13 Okay. And -- how is that, is that better?

14 A. Yes.

15 Q. Okay. All right. This is a disk of December 14, 2014.
16 Do you recognize that disk?

17 A. Yes.

18 Q. Okay. Now there's some writing -- actually you may not be
19 able to see all of that if I don't pull that out of the sleeve.
11:10AM 20 How is that? Better?

21 A. Yes.

22 Q. So there's some writing on that disk?

23 A. Yes.

24 Q. Okay. And who wrote that on the disk?

25 A. I did.

1 Q. And what did you write?

2 A. "Crazy and Danger".

3 Q. And why did you write "Crazy and Danger"?

4 A. Because they're the ones speaking here.

5 Q. Okay. Well, let me start by this. Who's Danger?

6 A. My brother.

7 Q. Is your brother also an MS-13 gang member?

8 A. Yes.

9 Q. Is he in the same clique as you?

11:11AM 10 A. No.

11 Q. What clique is he in?

12 A. The Everetts.

13 Q. Okay. Who is Crazy?

14 A. He's from the Everetts.

15 Q. All right. I'm going to put up what's been marked as
16 Exhibit Number 209. Is that a disk that you listened to before
17 your testimony here today?

18 A. Yes.

19 Q. Okay. How do you know that?

11:12AM 20 A. It has my initials on it.

21 Q. Okay. And did you identify the speakers on that
22 conversation?

23 A. Yes.

24 Q. All right.

25 MR. POHL: Your Honor, the English transcript that

1 goes with Exhibit 209 is Exhibit Number 44 and I'd move that
2 into evidence.

3 THE COURT: All right. It's admitted, 44.

4 (Exhibit No. 44 received into evidence.)

5 THE COURT: Just for the record, during Ms. Huacuja's
6 testimony, it was 44.1 through 44.4. I assume it's the same?

7 MR. POHL: It is, your Honor. Thank you.

8 THE COURT: Okay. Go ahead.

9 Q. Exhibit Number 210. This is a disk of a recording from
11:13AM 10 January 21, 2014. Did you listen to that before your testimony
11 here today?

12 A. Yes.

13 Q. Okay. How do you know?

14 A. It has my initials.

15 MR. POHL: Your Honor, I'd move the English transcript
16 for Disk 210, which is Exhibit 55 into evidence.

17 THE COURT: It's admitted, 55.

18 (Exhibit No. 55 received into evidence.)

19 Q. I'm going to put up 211. Do you recognize that?

11:14AM 20 A. Yes.

21 Q. How do you recognize it?

22 A. It has my initials on it.

23 Q. Okay. And that's one of the disks that you listened to
24 before your testimony here today?

25 A. Yes.

1 Q. Okay. Is there anything else that you wrote on that disk?

2 A. Yes.

3 Q. What did you write on that disk?

4 A. "Checha".

5 Q. Why did you write "Checha" on the disk?

6 A. Because I identified his voice there.

7 MR. POHL: Your Honor, that is Exhibit Number 56.1
8 through 3, and I'd move that into evidence.

9 THE COURT: All right. It's admitted, 56.1 through
11:15AM 10 56.3.

11 (Exhibit No. 56.1 through 56.3 received into
12 evidence.)

13 Q. Mr. Hernandez Miguel, I'm showing you Exhibit Number 212.
14 Do you recognize that?

15 A. Yes.

16 Q. Is that one of the disks that you reviewed before your
17 testimony?

18 A. Yes.

19 Q. Okay. And how do you know that?

11:15AM 20 A. I wrote my initials on it.

21 Q. Okay. Did you write anything else on the disk?

22 A. Yes.

23 Q. Okay. What else did you write on the disk?

24 A. "Calls with Lobo."

25 Q. Okay.

1 MR. POHL: Your Honor, the corresponding transcript to
2 this is Exhibit Number 62.1 through .4 and I'd move that into
3 evidence.

4 THE COURT: It's admitted, 62.1 through 62.4.

5 (Exhibit No. 62.1 through 62.4 received into
6 evidence.)

7 MR. POHL: Your Honor, I know we're getting close to
8 the break. I think I have one more, and then it would be a
9 good time to break, if that's acceptable to you.

11:16AM 10 THE COURT: All right.

11 Q. All right. Mr. Hernandez Miguel, I'm showing you what's
12 been marked as Exhibit Number 214. Do you recognize that?

13 A. Yes.

14 Q. Did you review that before your testimony here today?

15 A. Yes.

16 Q. How do you know?

17 A. It has my initials on it.

18 Q. Okay.

19 MR. POHL: Your Honor, that's Exhibit Number 63 and
11:16AM 20 I'd move that in. Excuse me, 73.

21 THE COURT: 73, 73 is admitted. That's the
22 transcript?

23 MR. POHL: Correct.

24 THE COURT: So we'll take a break.

25 THE CLERK: All rise.

1 (JURORS EXITED THE COURTROOM.)

2 (A recess was taken.)

3 THE CLERK: All rise.

4 THE COURT: Please be seated. You wanted to preserve
5 something, Mr. Norkunas?

6 MR. NORKUNAS: Yes, Judge. Thank you for giving me
7 that opportunity. I had filed a pretrial motion challenging
8 the telephone calls, and in relation to the February 14th,
9 which just came in, Exhibit 56.1 through 3, and I'd again renew
11:35AM 10 my objection at this point in time to the admission of those,
11 Judge.

12 THE COURT: Okay. And that's overruled.

13 MR. NORKUNAS: Thank you.

14 THE COURT: All right. Lisa is lining up the jury, so
15 we'll bring them in as soon as they're ready.

16 Actually, there was the motion filed by Guzman
17 concerning testimony on charge X. Are we going to get to that
18 today? I've read it. Give me a heads-up if we're going to get
19 to them so I can rule on that motion before --

11:35AM 20 MR. LOPEZ: I think that's with the other cooperating
21 witness.

22 THE COURT: Oh, excuse me. I'm sorry.

23 THE CLERK: All rise for the jury.

24 (JURORS ENTERED THE COURTROOM.)

25 MR. POHL: Can we approach sidebar briefly?

1 THE COURT: Yes.

2 (SIDE BAR CONFERENCE WAS HELD AS FOLLOWS:)

3 MR. POHL: Thank you. I just wanted to flag the way
4 that I expect between now and the end of today, I'm going to be
5 reading some of the transcripts that have been admitted, and
6 we've thought of a variety of ways of doing it. Obviously,
7 Mr. Hernandez Miguel can't participate in the reading, so I'll
8 be reading the portions myself and probably stopping along the
9 way to ask him questions at various points. I just -- if there
11:37AM 10 was going to be an objection or some sort of --

11 THE COURT: You'll be reading all participants?

12 MR. POHL: I think I'm reading all participants. Yes.
13 I thought about having other people read the transcripts, it
14 just was too cumbersome.

15 THE COURT: Okay. That's fine, and just --

16 MR. MURPHY: Okay. Are we going to swear Mr. Pohl in?

17 THE COURT: I hope he reads it carefully. Usually
18 people get bored and get sloppy.

19 MR. POHL: That was it. Thank you.

11:38AM 20 (SIDE BAR CONFERENCE WAS CONCLUDED)

21 THE CLERK: Thank you. You may be seated. Court is
22 now back in session.

23 THE COURT: Mr. Pohl.

24 MR. POHL: Thank you very much, your Honor.

25 Q. Mr. Hernandez Miguel, when we left off, we were talking

1 about the first time that you and Pelon went from Massachusetts
2 to New Hampshire. And do you remember why you drove with Pelon
3 from Massachusetts to New Hampshire?

4 A. Yes.

5 Q. Why was that?

6 A. Protecting a kilo of cocaine.

7 Q. And who did you do that with?

8 A. It was me, Pelon and Checha.

9 Q. Okay. Did you, Pelon and Checha talk about the plan to
11:42AM 10 protect the drugs before you drove from Massachusetts to
11 New Hampshire?

12 A. Yes.

13 MR. POHL: Your Honor, at this time I'd ask the ladies
14 and gentlemen of the jury to pull out their transcript binders.

15 THE COURT: All right.

16 MR. POHL: Can I approach the witness stand? And
17 could you turn to tab 55, please.

18 THE INTERPRETER: Could you repeat that, please?

19 MR. POHL: 55.

20 THE COURT: Ladies and gentlemen, let me explain what
21 I think is going to happen here. We have English language
22 transcripts which I have admitted as evidence in the case. To
23 present them to you, I think Mr. Pohl is going to read them or
24 read portions of them. Just to remind you, that's a way of
25 presenting it to you. It's not his words, but the actual words

1 on the transcript that are the evidence. If he garbled
2 something or misses a word or inserts the word, it's obviously
3 the transcript that controls, and there's no ideal way to do
4 this because, of course, it was originally in Spanish.

5 MR. POHL: Thank you very much, your Honor.

6 Q. So, Mr. Hernandez Miguel, I'm just going to read one or
7 two of the sentences that begin the transcript and see if you
8 remember this. So this is from a meeting on January 21, 2014.

9 And CW-1 says "Checha."

11:44AM 10 Checha says, "What's up?"

11 CW-1 says, "We have some business more or less over
12 there. Maybe you would like to help. I'm looking for a driver
13 to just follow me in a car. I don't know New Hampshire."

14 Okay. So let me just stop right there before I read
15 any further. Do you remember this conversation?

16 A. Yes.

17 Q. And do you remember where you were when you had that
18 conversation?

19 A. Yes.

11:44AM 20 Q. Where were you?

21 A. We were in Pelon's car.

22 Q. Okay. So, who's in the car?

23 A. Myself, Pelon, and Checha.

24 Q. Okay. So now I'll continue reading.

25 Checha: "It's in New Hampshire?"

1 CW-1: "Uh-huh, I'm going to bring a doll, a kilo."

2 Checha: "Only one?"

3 CW-1: "Uh-huh, so..."

4 Checha: "We need two cars?"

5 CW-1: "Yes, because me and Muerto will go here in my
6 car and you will be tailing me behind. There's no problem with
7 the front, but it's the back that I need a tail, so that in
8 case the cops turn their lights on us, what you can do is burn
9 some rubber or move away from them."

11:45AM 10 Checha: "Right, do something stupid."

11 CW-1: "Pull over to the curb."

12 Checha: "So that they would stop me."

13 CW-1: "Uh-huh, so then I could get away, you know,
14 and to go there, \$500, you know. Do you think that --"

15 Checha: "No, man. I won't do anything for \$500. In
16 fact, I'm going to Texas soon."

17 CW-1: "No kidding."

18 Checha: "Yes, I leave on Friday."

19 CW-1: "Fuck, \$1,500 just to take it over there."

11:46AM 20 Checha: "\$1,500 is very cheap. How much time do you
21 think you would get if --"

22 CW-1: "Oh, for a gram I would get 20 years."

23 Checha: "Precisely."

24 CW-1: "But..."

25 Checha: "\$1,500 is very little, dude."

1 And what are you going to move it from -- "and where
2 are you going to move it from?"

3 CW-1: "From here."

4 Checha: "From Chelsea to there?"

5 CW-1: "Yes."

6 Checha, to which town are you taking it there? "To
7 which town, there, are you taking it?"

8 CW-1: "Right to New Hampshire."

9 Checha: "Yes, but where?"

11:46AM 10 CW-1: "I don't know. He's going to give me the
11 address."

12 Checha: "Watch out, it's hot there. I'm working
13 there right now, but maybe it would be possible right now
14 because of the snow."

15 CW-1: "But it's going to be next week. No, man, no,
16 no, no. It's not that big a deal, I feel like going by myself,
17 but the thing is that I want someone to follow behind me."

18 Checha: "Right, a tail."

19 CW-1: "Uh-huh, just to follow behind. Whoever
11:47AM 20 follows behind wouldn't -- fuck, I'm the one that would. Me
21 and this dude would bear the weight here because we would be
22 taking the monster in here."

23 Checha: "Yes."

24 CW-1: "Whoever drives, if you want, could follow me
25 from afar."

1 Checha: "The thing is that the guy behind you also
2 has to be careful."

3 CW-1: "The only thing I want is someone behind me to
4 watch me back, the plate, you know, so that it won't --"

5 Checha: "Yes, yes."

6 CW-1: "So that, you know, but I don't think that
7 person would have a problem, because, you know, how would they
8 know that the one in front has the shit and the one behind, I
9 have always done it that way. Whenever I move something, I
11:48AM 10 take it there while someone, you know."

11 Checha: "Someone else behind you, tailing you."

12 CW-1: "Yes because when it's got a weight, when it's
13 a big load like 30 or 40 kilos, then three of us go."

14 Checha: "Yes."

15 CW-1: "Out in front, (unintelligible) the truck and
16 the next right behind me and the other one up ahead calling in
17 case there's a cop quickly."

18 Checha: "Exactly."

19 CW-1: "If there's a roadblock --"

11:48AM 20 Checha: "That's what I was going to suggest about
21 sending someone ahead, that's what we used to do."

22 CW-1: "No, this isn't a big deal. Right now, this is
23 nothing. I had just asked them to help me out because I don't
24 have --"

25 Checha: "You don't have something."

1 CW-1: "I don't have money. Money is what I don't
2 have so they said go, we'll give you a break."

3 Checha: "Are they going to call you?"

4 CW-1: "Yes. They're going to let me know because
5 when it arrives they're going to give me one."

6 Checha: "Oh."

7 CW-1: "Uh-huh, I already had everything planned there
8 in New Hampshire. I get there, deliver it to one guy, I am
9 given the money and we return. They work out their stuff on
11:49AM 10 their own. We make the delivery in a parking lot wherever, you
11 know, quickly bring it over and turn around."

12 Checha: "In what are you taking it?"

13 CW-1: "Oh, stuck right here in my belly, or I'll
14 throw it here in this shit. That's no biggy."

15 Checha: "Hey, I have a kilo stuck right here in my
16 belly."

17 CW-1: "No, don't worry about that because I can put
18 that shit under the seat here or next to me. Any old place
19 here if I get stopped. When one gets stopped you already know
11:49AM 20 you'll be arrested. Wherever you have it, they will break the
21 car, the thing is --"

22 Checha: "Don't get nervous."

23 CW-1: "No, never."

24 Checha: "There have been times I have managed to pass
25 through."

1 CW-1: "No, man. I have even passed through with a
2 gun sometimes."

3 Checha: "Precisely. No, this dude knows. I do it on
4 the fly, look to drive, too. I also know the streets there,
5 dude. I would tell you to get the address from where we're
6 going."

7 CW-1: "All right."

8 Checha: "So that we go the right way."

9 CW-1: "You think so? That's not a problem. I
11:50AM 10 realize I'm not familiar and this guy says it's hot, but it's
11 hotter from Texas to here and they get in."

12 Checha: "Well, haven't I done that already?"

13 CW-1: "Precisely."

14 Checha: "Precisely, but you also don't do it unless
15 you're making good money."

16 CW-1: "No, fuck, but they're paying \$1,000 man, per
17 kilo from Houston to here."

18 Checha: "But think 5 kilos."

19 CW-1: "5,000, but --"

11:51AM 20 Checha: "Who's going to give you \$5,000 around here?"

21 CW-1: "Exactly and they're giving me \$1,500 because I
22 told them there were three of us, so we're going to make \$1,500
23 just to move one kilo inside here. You know perfectly well
24 they pay \$1000 because I also used to do stuff from Houston to
25 Atlanta and North Carolina per kilo. If I were moving more

1 than 5 kilos here, I would get \$1,000 for each kilo, same shit
2 and they're now telling me they will give me more."

3 Checha: "So this kilo is just to start?"

4 CW-1: "Yes. This is to see if I really -- because I
5 told them look I don't have work right now. So they said,
6 okay, we'll see what happens down there, and we'll let you know
7 what's going on there, and we'll send you one so that you'll
8 take it over there, and you'll earn \$1,000, \$1500 there, so
9 that you can at least pay the rent. Fine, no problem, I
11:51AM 10 wouldn't say no."

11 Checha: "Exactly."

12 CW-1: "When there's no work. So I said yes --"

13 And then I told -- it says, "and they I told Muerto
14 hey, dude because I don't trust other people."

15 Checha: "No, exactly, dude."

16 CW-1: "But I was going to ask the guy with the BMW,
17 but no."

18 Muerto: "Oh, yes, because they don't know what's up.
19 Those boys are scared."

11:52AM 20 CW-1: "Well, I won't say they're scared because I
21 can't even tell them what I'm taking. I can't say, look,
22 follow me there."

23 Checha: "Right. Well, tell you're going to there to
24 sell the car."

25 CW-1: "It's better to take someone who knows."

1 Checha: "Yes, so the escort detail is from only here
2 to there?"

3 CW-1: "Yes, there from there, what the fuck, you can
4 stay around there if you want."

5 Checha: Yes, that's what I'm saying. I'll stay
6 there."

7 CW-1: "All right. That's just for us. I don't know
8 how the fuck to get back here."

9 Muerto: "That's easy, from there to here."

11:52AM 10 Checha: "It's fast from there."

11 Muerto: "The same road brings you back here."

12 CW-1: "Uh-huh, it's the same street."

13 Checha: "Get the address."

14 CW-1: "So will you do us the favor?"

15 Checha: "Exactly to follow behind you like that,
16 yes."

17 All right. It goes on, but I think we can stop there.

18 Mr. Hernandez Miguel, after that conversation -- well, where
19 you talked about protecting a kilogram of cocaine from
11:53AM 20 Massachusetts to New Hampshire, did you do that?

21 A. Yes.

22 Q. Okay. How did you do it?

23 A. I was with Pelon in the car and Checha was behind us.

24 Q. And do you remember where you met?

25 A. Outside of my house. I lived in Chelsea on Central

1 Avenue, and we had agreed to meet there at a certain time.

2 Q. And did you do that?

3 A. Well, we were waiting for Checha and Checha supposedly was
4 with a friend, and we told him that if he was going, he had to
5 go by himself, not with anyone else. And he said, okay, I'll
6 drop him off at his house, and I'll follow you.

7 Q. And did Checha meet up with you and Pelon?

8 A. Yes.

9 Q. Where did you go? Where did you go next?

11:54AM 10 A. After we met up, we went to Saugus.

11 Q. Okay.

12 A. In Saugus, we were given the kilo of cocaine.

13 Q. So how did that happen? Tell me about that.

14 A. We went to Saugus, and someone was waiting for us there in
15 a truck, so he got out of the truck and he got into the car. I
16 was in with Pelon, and he gave us the kilo of cocaine there.

17 Q. Okay. After you got the kilo of cocaine, what did you and
18 Pelon do?

19 A. We headed for New Hampshire.

11:56AM 20 MR. POHL: Could I ask you to turn to 56 and
21 specifically there's three calls. We're looking at 56.1 here.

22 Q. Mr. Hernandez Miguel, you just described a telephone call
23 that Pelon had with Checha, correct, and that you had with
24 Checha?

25 THE INTERPRETER: I'm sorry, could you repeat the

1 question?

2 Q. Sure. You just described a call that you had with Pelon
3 and Checha before you picked up the kilo, correct?

4 A. Yes.

5 Q. Okay. So I'll read 56.1.

6 Checha: "What's up?"

7 CW-1: "What's up? I'm here and ready. Where are
8 you?"

9 Checha: "Here in the parking lot."

11:57AM 10 CW-1: "No, man, I'm here at the parking lot at
11 Muerto's house. That's what we agreed upon."

12 Checha: "Oh, I came here to change cars, dude."

13 CW-1: "What happened to yours?"

14 Checha: "He said he didn't like it."

15 CW-1: "No, man, why did you go rent one? Fuck, just
16 come over here. I'm here. The thing is already there."

17 Checha: "Come here by --"

18 CW-1: "No, man, dude, we agreed to meet here."

19 Checha: "All right then."

20 CW-1: "All right."

21 Checha: "I'll be there in two minutes."

22 So, all right. Then Checha came by, correct, then
23 Checha came to meet you, correct?

24 A. Yes.

25 Q. Then you drove to Saugus?

1 A. Yes.

2 Q. And you got the kilo?

3 A. Yes.

4 Q. Okay. Once you and Pelon got the kilo, where did you go?

5 A. We went towards New Hampshire.

6 Q. Where was -- did you see where Checha was?

7 A. He was behind us.

8 Q. Okay. In his own car?

9 A. In his car.

11:58AM 10 Q. All right. Where did you go?

11 A. We got to the entrance to New Hampshire and we got off
12 like at a hotel at the parking lot there and there we delivered
13 the kilo of cocaine.

14 Q. When you got there, what happened?

15 A. We got there, someone was waiting for us there. We handed
16 over the kilo of cocaine, and they gave us the money.

17 Q. Where was Checha when that happened?

18 A. He parked across the street.

19 Q. Where across the street?

11:59AM 20 A. Pelon and I had planned to drive into the parking lot
21 where the dude that had the cocaine was, and at the hotel
22 entrance there was a different way, which led to some offices,
23 and there was a parking lot there. That's where he parked.

24 Q. Okay. All right. After you -- what did you and Pelon do
25 with the kilogram of cocaine once you got to New Hampshire?

1 A. I took it and I put it where my feet were.

2 Q. And when it was time to drop it off, what did you do?

3 A. Pelon told me to grab it and to put it behind because the
4 guy who picked up the cocaine got into the car in the back
5 seat, so I grabbed the cocaine and moved it back slowly so that
6 the guy that came into the car grabbed it.

7 Q. And then he gave you the money?

8 A. Yes.

9 Q. Okay. When you got the money, did you drive back from
12:01PM 10 New Hampshire to Massachusetts?

11 A. Yes.

12 Q. Okay. Do you remember whether anything happened on the
13 ride back with Checha?

14 A. Yes.

15 Q. What was that?

16 A. When we left and got on the highway, the person that
17 received the cocaine went to the left, we went to the right and
18 supposedly the guy that had received the cocaine called saying
19 that Checha was following behind him and what we were up to,
12:02PM 20 had we planned on taking the cocaine back or what? So we
21 called Checha and asked him what he was doing, and he said I
22 was just protecting him until he got on the highway to check
23 and make sure there were no cops behind him.

24 Q. Well, was there a time during this deal that Checha
25 thought he saw a police officer?

1 A. Yes.

2 MR. POHL: All right. Jurors, 56.3, please.

3 Q. All right.

4 CW-1: "What's up, what's up? Checha, Checha. What's
5 going on?"

6 Checha: "There goes the truck and the
7 (unintelligible) again along Central Street, man."

8 CW-1: "Don't fuck with me, where is the truck?"

9 Checha: "It's on Central Street right now, I'm
12:03PM 10 telling you. I just saw it as I was coming down. It's on
11 Central Street right now, dude."

12 CW-1: "Well, I'm here already on Central Street,
13 dude."

14 Checha: "Well, there goes the son of a bitch right
15 now. Right here at the light by the car wash. It went up that
16 way right now the son of a bitch. Watch out for it."

17 CW-1: "Don't fuck with me, here by the car wash?"

18 Checha: "No, on Central Street, Central. It's going
19 up the, truck."

12:03PM 20 CW-1: "Oh, on Central?"

21 Checha: "It's on Central, look for it."

22 CW-1: "Check the plate or something. Tell me what
23 you see."

24 Checha: "The whore doesn't have a front plate."

25 CW-1: "It has no plate, all right."

1 MR. POHL: Can I have this for the witness.

2 Q. Two pictures I'm showing you, Mr. Hernandez Miguel. Do
3 you recognize those?

4 A. Yes.

5 Q. What are we looking at there?

6 A. This was the money we were paid for bringing the kilo of
7 cocaine to New Hampshire.

8 Q. In the first picture, what were you holding?

9 A. That was the kilo of cocaine.

12:04PM 10 Q. And is that the kilo of cocaine and the money you got from
11 the deal that you did with Pelon and Checha?

12 A. Yes.

13 MR. POHL: I'd offer 57.1 and 2, your Honor.

14 THE COURT: All right. They're admitted, 57.1 and 2.

15 (Exhibit No. 57.1 and 57.2 received into evidence.)

16 Q. 57.1, what is that, Mr. Hernandez Miguel?

17 THE INTERPRETER: I'm sorry. Could you --

18 Q. What are we looking at, Mr. Hernandez Miguel?

19 A. That's the kilo of cocaine.

12:05PM 20 Q. All right. And 57.2.

21 A. That's the money we were paid for bringing the cocaine to
22 New Hampshire.

23 Q. Okay. Do you know if Checha got paid?

24 A. We were each going to get 500. He was paid.

25 Q. Okay. Did you get \$500?

1 A. Yes.

2 Q. Did you do another run from Massachusetts to New Hampshire
3 with Pelon in 2014?

4 A. Yes.

5 Q. Okay. Do you know how many times you did that with Pelon?

6 A. Two times, I believe, to New Hampshire.

7 Q. Okay. When is the next time you remember doing it with
8 Pelon?

9 A. That was in 2014.

12:06PM 10 Q. Okay. And who went with you that time?

11 A. It was myself, Pelon, Lobo, Caballo, Crazy, and Danger.

12 Q. Okay.

13 MR. POHL: So I think before we go any further, for
14 the witness, could I have 13?

15 Q. Who is that, Mr. Hernandez Miguel?

16 A. Crazy.

17 Q. And how do you know Crazy?

18 A. Because he's in MS.

19 Q. Okay. Is he in your clique?

12:07PM 20 A. No.

21 MR. POHL: I'd move that into evidence, your Honor.

22 THE COURT: What number is it?

23 MR. POHL: 13.

24 THE COURT: All right. It's admitted.

25 (Exhibit No. 13 received into evidence.)

1 Q. What clique is Crazy in, Mr. Hernandez Miguel?

2 A. The Everetts.

3 Q. Is that the same clique as your brother?

4 A. Yes.

5 Q. All right. Who is that?

6 A. That's Danger.

7 Q. Okay. Who's Danger?

8 A. My brother.

9 Q. Is he also in MS-13?

12:08PM 10 A. Yes.

11 Q. What clique is he in?

12 A. Everetts.

13 MR. POHL: Can I go back to the witness just briefly?

14 THE COURT: Are you offering this?

15 MR. POHL: I'm sorry, Your Honor. I think this is
16 actually evidence from yesterday. I apologize. Yes.

17 THE COURT: Oh, it is.

18 MR. POHL: For the witness, 18.1.

19 Q. Do you recognize that?

12:08PM 20 A. Yes.

21 Q. Who is that?

22 A. Crazy.

23 Q. What's on his chest?

24 A. The MS.

25 MR. POHL: This is 18.2 and I'd offer it, Judge.

1 THE COURT: It's admitted, 18.2.

2 MR. POHL: Sorry, Judge. This is 18.1.

3 Q. Let me show you the second picture. Do you recognize
4 that, Mr. Hernandez Miguel?

5 A. Yes.

6 Q. What is that?

7 A. That's the Everett's clique, the ELS.

8 MR. POHL: I'd offer 18.2 as well. Thank you.

9 THE COURT: All right. 18.1 and 18.2 are admitted.

12:09PM 10 (Exhibit No. 18.1 and 18.2 received into evidence.)

11 Q. All right. So, when you did the next deal to protect
12 drugs, you did it with yourself, Pelon, and who else?

13 A. Lobo, Danger, Caballo, and Crazy.

14 MR. POHL: Can I have 11?

15 Q. Who is that?

16 THE CLERK: Exhibit 11?

17 MR. POHL: Yes, it is in.

18 A. Caballo.

19 Q. Okay. All right. What were you protecting?

12:10PM 20 A. Five kilos of cocaine.

21 Q. How did you know that you were protecting five kilos of
22 cocaine?

23 A. Because we always would meet in advance and talk about
24 what we were going to move.

25 Q. Okay. Did you do that in this instance?

1 A. Yes.

2 Q. Okay. Who did you meet with?

3 A. We met with Caballo, with Lobo, Crazy was told about it,
4 Danger, all of us.

5 MR. POHL: Jurors, can I ask you to turn to 62.1.

6 Q. 62.1 is a call on December 1, 2014. And do you recognize
7 the voice on this call as being from Lobo?

8 A. Yes.

9 Q. Okay.

12:12PM 10 CW-1: "What's up, man?"

11 Lobo: "What's going on?"

12 CW-1: "Not much. What are you doing?"

13 Lobo: "Still at work, man."

14 CW-1: "No shit."

15 Lobo: "I'll get out in an hour."

16 CW-1: "Oh, yeah? I'm just calling to see if you're
17 on for that thing or not."

18 Lobo: "When are you going?"

19 CW-1: "Monday."

12:12PM 20 Lobo: "Monday?"

21 CW-1: "Next Monday, not this one. So today is
22 Monday, but next week."

23 Lobo: "I can't this week, but if that's the case, it
24 gives me time to fix that thing that measures the speed of the
25 car because that shit is stuck."

1 CW-1: "Yes, man, but huh?"

2 Lobo: "At what time would we go?"

3 CW-1: "In the morning."

4 Lobo: "Oh, so I would have to take the day off then."

5 CW-1: "Huh?"

6 Lobo: "I would have to ask for the day off."

7 CW-1: "Exactly. If we're going to go, you'll have to
8 ask for the day off because I don't want you to let me down
9 because I am counting you. You know it will be \$500 for the
12:13PM 10 short while, you know."

11 Lobo: "Yes, yes, yes."

12 CW-1: "It's not that big a deal, but you do have to
13 ask for the day off because you can't tell them you're going to
14 go out with me for a little while and then you can't do it."

15 Lobo: "No, no, I'm saying we will go."

16 CW-1: "Yes."

17 Lobo: "If I say let's go, it's because we're going,
18 I'm just going to fix that thing with the needle in the truck
19 because that shit isn't work correctly, and I don't like that."
12:13PM 20

CW-1: "Otherwise, I have GPS that shows the speed."

21 Lobo: "Well, that's also awesome."

22 CW-1: "Yes. I'll give you the GPS if you don't have
23 time to get it fixed. We're just going to drive at the speed
24 limit, you know, and the GPS will show us what our speed is."

25 Lobo: "No problem, dude. I have to take it in any

1 way, the truck. I think I'll do it tomorrow, by Wednesday it
2 will be ready for the weekend."

3 CW-1: "All right."

4 Lobo: "But you can definitely count on me. Let's
5 go."

6 CW-1: "All right then. We'll talk later. See you
7 later. Okay, then."

8 Q. Okay. So let's jump ahead to the day of the five kilo
9 protection. What happened that day?

12:14PM 10 A. I was going to drive a car, Caballo was going to drive
11 next to me, Lobo was going to drive a different car, and Danger
12 was going to go with Lobo. Pelon was going to drive another
13 car, and Crazy was going to go with him, and the drugs would be
14 in Pelon's car. I was going to drive in the front and Lobo in
15 the back and Pelon in the middle.

16 Q. And would Pelon call the people that had been agreed to do
17 the protection details before the meetings would take place?

18 A. Yes.

19 Q. Okay.

12:15PM 20 MR. POHL: 62.4.

21 Lobo: "What's up?"

22 CW-1: "What's up, man? Are you ready?"

23 Lobo: "I am, waiting for your call."

24 CW-1: "Well, I got the car, and I'm going now to pick
25 up Muerto. I'm also calling Crazy to get himself ready."

1 Lobo: "All right, I'm at Mariachi."

2 CW-1: "Oh, you're at Mariachi."

3 Lobo: "Yes."

4 CW-1: "All right, I'm on my way. Stay there because
5 it's cold outside."

6 Lobo: "Fine. I have the car anyway."

7 CW-1: "Great, I'll be there. I'll call you when I'm
8 outside for you to come out."

9 Lobo: "All right, man."

12:16PM 10 CW-1: "All right."

11 Q. What happened -- so how did you all -- where did you all
12 meet when you were getting ready to protect the drugs?

13 A. We met at the Burger King in Chelsea in front of Market
14 Basket at the parking lot there, and we met in the parking lot
15 of Bank of America -- or I don't know if it's Bank of America,
16 but it's a bank.

17 MR. POHL: Can I for the witness, Madam Clerk?

18 THE CLERK: Yes.

19 MR. POHL: 65.

12:17PM 20 Q. I'm going to show you a series of pictures, Mr. Hernandez
21 Miguel, just for yourself now. Can you tell me who these
22 people are?

23 A. That's Caballo.

24 Q. 2?

25 A. That's Lobo.

1 Q. 3? Can I go back to 2 for a second?

2 A. That's Lobo.

3 Q. 3.

4 A. That's Lobo.

5 Q. Okay. 4?

6 A. The one in the middle is Danger.

7 Q. And who's off to the side?

8 A. Up here it's me.

9 Q. Who's that?

12:18PM 10 A. Danger.

11 Q. Who is that?

12 A. Crazy.

13 Q. Who is that?

14 A. Lobo.

15 MR. POHL: Your Honor, I would move those photographs
16 into evidence.

17 THE COURT: I'm sorry, what are their numbers again?

18 MR. POHL: It is 65.1 through -- I'm sorry, 65.1
19 through .6 skipping 7 and then .8, so 1 through 6 and 8.

12:18PM 20 THE COURT: And that's the order in which they were
21 shown to the witness?

22 MR. POHL: Yes, your Honor.

23 THE COURT: All right. They're admitted.

24 (Exhibit Nos. 65.1 through 65.6 and 65.8 received into
25 evidence.)

1 Q. All right. So, Mr. Hernandez Miguel, just talk us through
2 what's happening here. Who's this in the front seat of the
3 car?

4 A. That's Caballo.

5 Q. Okay.

6 THE COURT: Can you identify by exhibit when you're
7 doing this, for the record?

8 MR. POHL: Yes, your Honor, thank you. This is 65.1.

9 Q. Where were you when Caballo was in the front seat
12:19PM 10 with -- well, who is in the car with Caballo now?

11 A. Right here, it's only Caballo in the car, but I will go
12 with him in the car because I'm the one that drove that car.

13 Q. And where did you end up meeting?

14 A. We met in Chelsea near Burger King.

15 Q. And who was in what car?

16 A. I was in Pelon's car. It was a white Honda. I was with
17 Caballo. Pelon was with Crazy. He was in a white Nissan
18 Ultima. In the other car, it was Lobo with Danger in the
19 Toyota Corolla.

20 Q. Okay. So which car was going to have the 5 kilograms of
21 cocaine?

22 A. In Pelon's car, the Nissan Ultima.

23 Q. And the person that was with Pelon at the time for the
24 protection was Crazy?

25 A. Yes.

1 Q. What was your job that day?

2 A. Our job was to protect the drugs because being members of
3 MS-13, who was going try to mess with MS-13, so that's why it
4 was only dudes from MS-13 there. So I was going in the front
5 so that no other car would attach itself to Pelon who was in
6 the middle, so I was driving in the front, Pelon in the middle,
7 and Lobo in the back. Our job was to make sure that no other
8 car got near the car that Pelon was in with the cocaine. And
9 if anything were to happen like if the police were to try to
12:22PM 10 stop Pelon, our job was to, you know, burn the tires or, you
11 know, with our speed or do anything to distract the police so
12 that Pelon would be able to get away with the drugs.

13 Q. All right. The next two pictures, let me show you 65.2.
14 That's Lobo?

15 A. Yes.

16 Q. Okay. And 65.3?

17 A. Lobo.

18 Q. Did Lobo meet with Pelon before you got the kilos?

19 A. Yes.

12:23PM 20 Q. Okay. 65.4. Do you remember when this picture was taken
21 or what time, when in the deal this picture came?

22 MR. LOPEZ: Objection, your Honor.

23 THE COURT: Hold on. He asked does he know when the
24 picture was taken. You can answer that. Overruled.

25 Q. Well, let me try a better question. Is this before you

1 got the kilos?

2 A. That was at the parking lot when we were all getting into
3 the cars that we were going to go in and getting ready.

4 Q. Okay. And you're talking about what you're going to do?

5 A. Yes.

6 Q. All right. And the person on the left of the picture is
7 who?

8 A. The one above?

9 Q. Yes.

12:23PM 10 A. That's me.

11 Q. Who's in the middle?

12 A. Danger.

13 Q. That's your brother?

14 A. Yes.

15 Q. All right. 65.5. Who is this?

16 A. Danger.

17 Q. All right. 65.6. Okay. So after you met in the parking
18 lot, where did you go?

19 A. We went to Route 1. We drove to Route 1, and it was on
12:24PM 20 Route 1 that the person that was going to deliver the drugs to
21 us was waiting, and at Route 1 is where we all organized
22 because we already know who's going to go in the front, who
23 would go in the middle, and who would go in the back.

24 Q. Then what happened?

25 A. The drugs were given to Pelon. Somebody got in the car

1 with the bag, and from there we took off going towards
2 New Hampshire, so that's when I got in the front. I was
3 driving, and Pelon was in the middle and Lobo was in the back.

4 Q. Where did you go?

5 A. To New Hampshire.

6 Q. What happened when you got to New Hampshire?

7 A. Before we got there because we got to the same place where
8 we had delivered the cocaine before, we had already agreed that
9 only Pelon and Crazy would go and that we would park on the
12:26PM 10 other side watching where they were.

11 Q. All right. So this up on the screen is 65.6. Who's in
12 the front seat with Pelon?

13 A. Crazy.

14 Q. This is after you got the cocaine on the way to
15 New Hampshire?

16 A. I think so.

17 Q. When you got to New Hampshire, what happened?

18 A. When we got to New Hampshire, they delivered the drugs --

19 THE INTERPRETER: The cocaine, I'm sorry.

12:27PM 20 A. And they got paid, they took the money and the person that
21 received the cocaine gave us a bunch of cigarettes.

22 Q. Did they give you anything else?

23 A. No.

24 Q. What about the money?

25 A. Yeah, I said the money.

1 Q. The money and cigarettes?

2 A. Yes.

3 Q. So after you dropped off the kilos --

4 A. Yes.

5 Q. -- what happened with the money?

6 A. Pelon got the money, we got the money, and we went back
7 directly to where we had originally met by Burger King in
8 Chelsea.

9 Q. Okay. When you got to the Burger King parking lot, what
12:28PM 10 happened with the money?

11 A. We divided it up. Each person got \$500.

12 MR. POHL: Okay. Can I have 65.8.

13 Q. So tell me about that, Mr. Hernandez Miguel, how did each
14 of you get the \$500?

15 A. We counted the money. It was \$3,000, and there were six
16 dudes, so each one of us had to take \$500, so when we got
17 there, each person got paid in the car.

18 Q. Okay. Who paid the money?

19 A. Pelon was counting the money and passing it over.

12:29PM 20 Q. And all of the people that did this, did they get the
21 money from Pelon in the car?

22 A. Yes.

23 Q. And who is at 65.8?

24 A. Lobo.

25 MR. POHL: All right. You can take it down,

1 thank you.

2 Q. All right. Mr. Hernandez Miguel, after that -- well, let
3 me ask you this: Were you aware of whether anyone on the
4 protection detail with the 5 kilos was armed with a gun?

5 A. I didn't know at the time, but afterwards Pelon said that
6 supposedly --

7 MR. IOVINO: Objection, your Honor.

8 THE COURT: Overruled.

9 A. -- Crazy had a gun.

12:30PM 10 Q. Okay. Had you ever seen Crazy with a gun?

11 A. Yes.

12 Q. When have you seen Crazy with a gun?

13 A. I saw him in Everett with a gun.

14 Q. Okay. Mr. Hernandez Miguel, do you remember a short time
15 after that 5 kilo protection detail, do you remember learning
16 that there was a murder that took place in Chelsea?

17 A. Yes.

18 Q. Okay. Let me ask you this: Did you know about the murder
19 before it happened?

12:31PM 20 A. Yes.

21 Q. Okay. How did you first learn about a plan to commit a
22 murder in Chelsea?

23 A. We were in Everett. It was myself, Crazy, Brujo, Danger,
24 and we were at the garage in Everett.

25 Q. Okay. So just so we're clear --

1 MR. POHL: Can you put up 1.1.

2 Q. The garage where the clique meetings happened, this is
3 1.1.

4 A. Yes.

5 Q. Okay. And the people that you said are present at the
6 garage at this time are yourself and who else?

7 A. It was myself, Danger.

8 Q. Stop right there.

9 MR. POHL: 12. Thank you.

12:32PM 10 Q. That's Danger?

11 A. Danger.

12 Q. Who else?

13 A. Crazy.

14 MR. POHL: 13.

15 Q. That's Crazy?

16 A. Yes.

17 Q. Who else?

18 A. Brujo.

19 MR. POHL: Number 8.

12:32PM 20 Q. Who is that?

21 A. Brujo.

22 Q. Okay. And who else?

23 A. Only those were there.

24 Q. And yourself?

25 A. Yes.

1 Q. Okay. You're at the garage in Everett with those guys.

2 Now, some of those guys are in the Everett clique, correct?

3 A. Yes.

4 Q. Were members of other cliques allowed at your garage?

5 A. Yes.

6 Q. Okay. Why?

7 A. Because even though we're different cliques, we are united
8 under the same two letters.

9 Q. While you were at the garage --

12:33PM 10 THE INTERPRETER: I'm sorry.

11 Q. While you were at the garage, did someone get -- well,
12 what happened next when you were at the garage?

13 A. While we were there at the garage, I heard Crazy talking
14 on the telephone, and he would hang up and get a call again, so
15 I asked Crazy who was calling him, and he told me that --

16 MR. NORKUNAS: Objection, Judge.

17 THE COURT: Petroziello objection, is it?

18 MR. NORKUNAS: Yes, and hearsay as well.

19 THE COURT: Overruled.

12:34PM 20 Q. You can answer that question.

21 A. He said that Vida Loca was calling.

22 Q. Okay. Do you know Vida Loca?

23 A. I've seen him a few times.

24 Q. Okay. How do you know Vida Loca?

25 A. He's from the Chelsea clique of MS-13.

1 MR. POHL: Okay. Can I have Exhibit 40 for the
2 witness, Madam Clerk.

3 Q. Do you see that, Mr. Hernandez Miguel? Exhibit 40? Who
4 is that?

5 A. Vida Loca.

6 MR. POHL: I'd move in Exhibit 40.

7 THE COURT: It's admitted, Exhibit 40.

8 (Exhibit No. 40 received into evidence.)

9 Q. Okay. So while you were at the garage, Vida Loca calls
12:35PM 10 Crazy?

11 A. Yes.

12 Q. Okay. What happens next?

13 A. At that moment, Checha was arriving. He supposedly was
14 coming from the bar that had just closed, so Crazy told me that
15 Vida Loca was calling him because he wanted the gun.

16 Q. What gun?

17 A. It was the gun that Crazy had. It belonged to the
18 Everett's clique.

19 Q. Did Crazy have the Everett clique gun on him when you were
12:36PM 20 speaking to him?

21 A. Yes.

22 Q. Okay. Did you see it?

23 A. Yes.

24 MR. POHL: May I approach the witness?

25 THE COURT: Yes.

1 Q. I'm just going to show you this object, which is marked
2 46.1. Do you recognize that?

3 A. Yes.

4 Q. How do you recognize it?

5 A. That was the .380 that Crazy had.

6 Q. Okay. What happened after Vida Loca called asking for
7 Crazy's .380?

8 A. I asked Crazy. He told me that supposedly Vida Loca
9 wanted the gun, and since I heard that Vida Loca was calling
12:37PM 10 Crazy every few minutes, that supposedly the day before someone
11 who sells beer --

12 MR. NORKUNAS: Objection.

13 THE COURT: Hold, hold on, stop there. Put another
14 question to him.

15 MR. NORKUNAS: Your Honor, may I have a general
16 relevance objection to this line of questioning?

17 THE COURT: Yes.

18 MR. MURPHY: Thank you, your Honor.

19 THE COURT: Go ahead.

12:38PM 20 Q. All right. Vida Loca wanted the gun?

21 A. Yes.

22 Q. And did Crazy say why Vida Loca wanted the gun?

23 A. Yes.

24 Q. Okay. And why did Crazy say that Vida Loca wanted the
25 gun?

1 A. Because a day before that, Vida Loca had gone to a house
2 that sells beer, and there he had run into some 18s and
3 allegedly he had had a fight with the 18s there. And when he
4 called Crazy, Vida Loca was saying that the 18s were there
5 again and to bring the gun because he was going to shoot them.

6 Q. What happened next?

7 A. I told Crazy not to bring him the gun because it could be
8 that Vida Loca was drunk or high, and Crazy said no, that dude
9 doesn't even drink.

12:39PM 10 Q. What happened after that?

11 A. Well, since Checha just arrived, we told Checha to bring
12 us, and so Checha put everyone in his car and was going to give
13 them a ride. And on the way, Crazy said that we were going to
14 go directly to Vida Loca, so I said that if they were going
15 over to Vida Loca to drop me off first at my house.

16 Q. Did they do that?

17 A. Yes.

18 Q. When they dropped you off, did they -- so let me ask you
19 this. Who is in the car when you leave the garage? Who is the
12:40PM 20 car when you -- Crazy goes to bring the gun to Vida Loca?

21 A. Crazy had the gun already.

22 Q. Right. And people left the garage to bring the gun to
23 Vida Loca?

24 A. Yes.

25 Q. Okay. And did you all leave together?

1 A. We all left together.

2 Q. Who was in the car when you left?

3 A. Checha was driving, and it was Crazy, Brujo, myself, and
4 Danger.

5 Q. Okay. Crazy had the .380 calibre gun that you just looked
6 at?

7 A. Yes.

8 Q. Did you see whether or not Brujo had anything?

9 A. Yes.

12:41PM 10 Q. What did Brujo have?

11 A. He had a 9 millimeter gun.

12 Q. Had you seen that gun before that day?

13 A. Yes.

14 Q. When had you seen it?

15 A. The gun that Brujo had had been given to him by Umelde
16 from the TLS. He had given it to Brujo to have it because he
17 slept at the garage.

18 Q. And TLS, is that another MS-13 clique?

19 A. Yes.

12:42PM 20 Q. So at the time that you were dropped off, who was in the
21 car?

22 A. Checha, Crazy, Brujo and Danger.

23 Q. Okay. Now, you got out of the car, right?

24 A. Yes.

25 Q. Did you have any other contact with Checha, Brujo, Crazy,

1 Danger that night?

2 A. No.

3 Q. All right. Did anybody tell you what happened that night
4 after you got out of the car?

5 A. Yes.

6 MR. NORKUNAS: Objection, Judge.

7 THE COURT: Overruled.

8 Q. Who was that?

9 A. Brujo.

12:43PM 10 Q. Okay. What did Brujo tell you happened --

11 MR. NORKUNAS: Objection, Judge.

12 Q. -- after you got out of the car?

13 THE COURT: Let me see counsel at sidebar quickly.

14 (THE FOLLOWING OCCURRED AT SIDEBAR:)

15 THE COURT: Am I correct that these statements are
16 within the scope of the *Petroziello* ruling?

17 MS. LAWRENCE: Yes, I believe they are, your Honor, I
18 don't have my motion I believe that there were statements made
19 in to the cooperating witness about this incident.

12:43PM 20 THE COURT: And is there an objection other than that
21 ruling, in other words, the basis other than *Petroziello*?

22 MR. NORKUNAS: The problem, Judge, is this in the
23 discovery that was provided, he's told one week later by Brujo
24 about some sort of the events relative to that, and I think, 1,
25 the government should put that in a time frame one week before

1 the gentleman comes forward and gives his statement.

2 THE COURT: We can do that.

3 MR. NORKUNAS: If you take outside that ruling
4 necessarily because it could have been bravado at that time as
5 to what may or may not happened.

6 THE COURT: All right. I'm going to rule on it.

7 MR. POHL: Thank you.

8 (SIDEBAR CONFERENCE WAS CONCLUDED)

9 THE COURT: Go ahead, Mr. Pohl.

12:44PM 10 MR. POHL: Thank you, your Honor.

11 Q. Can I put up Exhibit Number 8. So, Mr. Hernandez Miguel,
12 I'm showing you Exhibit Number 8. Who is that?

13 A. Brujo.

14 Q. Okay. After you got dropped off, you talked to Brujo?

15 A. The following day.

16 Q. And what did Brujo tell you happened at -- after you got
17 out of the car?

18 A. That they had gone directly to Chelsea and that supposedly
19 Vida Loca was sitting in front of -- on the stairs in front of
12:45PM 20 the house and that Vida Loca said he was going to go in alone
21 and Brujo said, no, that he was going to go in with him because
22 they were from -- they were all MS, and Brujo also had a gun,
23 and so he said that he went in, first Vida Loca went into the
24 house and told Brujo to stay at the door and not let anyone get
25 out, and then Vida Loca went inside to look for the culeros,

1 and then Brujo said he heard a voice outside on the porch, and
2 it was Vincentino, he said.

3 So Brujo said then he went on the porch and was there
4 lighting a cigarette when he heard the shots inside that Vida
5 Loca had fired the shots inside.

6 Q. Then what happened?

7 A. And then Brujo said that he went to the garage and Vida
8 Loca supposedly left with the Everetts.

9 Q. So, before I move on, I just want to make sure that I
12:47PM 10 understand correctly. Your clique is Eastside, correct?

11 A. Yes.

12 Q. Brujo, the person in photo Number 8, what clique is he in?

13 MR. MURPHY: The question has been asked and answered.

14 THE COURT: Overruled.

15 A. Eastside.

16 MR. POHL: Okay. And can I have 40?

17 Q. Vida Loca, what clique is Vida Loca in?

18 A. Chelsea.

19 MR. POHL: And Number 13.

12:48PM 20 Q. And, Crazy, what clique is Crazy in?

21 A. Everetts.

22 Q. Okay. So after the murder and after that conversation
23 with Brujo, was there a meeting of the Eastside clique?

24 A. Yes.

25 Q. Okay. Did that meeting discuss what happened at the

1 murder?

2 A. Yes.

3 Q. Putting up Exhibit 10, who is that?

4 A. Vincentino.

5 Q. Did anything happen at the meeting concerning Vincentino?

6 A. Yes.

7 MR. LOPEZ: Objection, your Honor. Time frame.

8 MR. POHL: I can ask.

9 Q. So how long after the conversation with Brujo, where you
12:49PM 10 talked about the murder, how many days later did you and the
11 other Eastside members meet?

12 A. About a week later or more perhaps.

13 Q. All right. At that -- where did that clique meeting take
14 place?

15 A. At the garage in Everett.

16 Q. Okay. And what was discussed at the clique meeting in
17 Everett?

18 A. The conversation was about Vincentino, about Vida Loca
19 because Vida Loca said he wanted us to give a beating to
12:50PM 20 Vincentino because the day that the chavalas had had a fight
21 with Vida Loca, Vincentino was present, and he didn't get
22 involved to defend Vida Loca. And that's why Vida Loca said he
23 wanted us to give a beating to Vincentino, and that if we
24 didn't do it, then when he got out of Massachusetts, he would
25 figure out how to do it himself and Vida Loca went Crazy.

1 Vida Loca couldn't go out because he was in a house where the
2 Everetts were keeping him because he had committed the murder,
3 so Vida Loca said he was sending Crazy to make sure that the
4 Eastside clique would correct Vincentino.

5 Q. How did the Eastside clique correct Vincentino for not
6 helping Vida Loca?

7 A. We gave him a 13-second beating.

8 Q. How did you do that?

9 A. We put Vincentino in the middle and three homeboys started
12:51PM 10 beating him up for 13 seconds.

11 Q. Okay. And do you remember who did it?

12 A. No, I don't remember.

13 Q. Do you remember who counted?

14 A. Yes.

15 Q. Who counted?

16 A. Casper.

17 Q. Do you remember a few weeks after that an incident
18 involving Lobo?

19 A. Yes.

12:52PM 20 Q. Did you learn that Lobo had been arrested with a gun?

21 MR. IOVIENO: Objection, your Honor.

22 THE COURT: Overruled.

23 A. Yes.

24 Q. How did you learn that?

25 A. Because the gun that was taken from Lobo was Tigre's gun.

1 One day Tigre was drunk, and he had the gun, and he shot it by
2 accident inside of a car, so I spoke with Casper, and I told
3 Casper that it would be better to take away the gun that Tigre
4 had. So he told me that I should take it from him, and Playa
5 was arriving at that moment, that was at the garage, so Tigre
6 gave his gun to Playa, and the clique was going to pay Tigre
7 for the money he had spent on the gun so that the gun would
8 become the clique's gun.

9 THE COURT: Just to remind you, ladies and gentlemen,
10 none of the defendants are charged with firearms offenses and
11 firearm offenses are not charged racketeering acts. Go ahead.

12 MR. POHL: Thank you.

13 Q. All right. So, Mr. Hernandez Miguel, did you -- how did
14 the gun get to Lobo?

15 A. Because the runners gave the gun to Lobo because
16 supposedly one day at Roy Jack, a bar, the chavalas had fired
17 shots at Lobo.

18 MR. MURPHY: Objection, your Honor.

19 THE COURT: I'll allow this testimony not for the
20 truth of the matter, that is, not that shots were fired at
21 Lobo, but that this was the reason given and for that purpose
22 only.

A. I'm sorry. I missed the question.

24 Q. I think you left off shots were fired at Lobo and why
25 would the facts that shots were fired at Lobo result in Lobo

1 getting a gun?

2 MR. IOVIENO: Objection.

3 THE COURT: Overruled.

4 A. Because if he had been shot at once, it could happen
5 again, and if he had a gun, then he could also shoot.

6 Q. Okay.

7 THE COURT: Let me just take a moment and explain my
8 ruling a little bit. The testimony that I've permitted is the
9 understanding or the report that shots had been fired at Lobo.
12:56PM 10 That's not the same as proof that shots were actually fired at
11 Lobo.

12 Let me give an example to try to illustrate that. So
13 suppose somebody opened the door to the courtroom and said,
14 "The courthouse is on fire, you need to evacuate." And later
15 on somebody said, "Why did you evacuate the building?" And you
16 say, "Because somebody told me that the courthouse fire."
17 That's not proof that there was ever a fire.

18 In other words, you couldn't deduce from that the
19 building was on fire, but somebody said something, and so you
12:56PM 20 took an action in response whether it was true or not.

21 Here, I'm permitting it not as proof that shots were
22 actually fired at Lobo, but that members or alleged members of
23 the conspiracy were told that. Go ahead.

24 MR. POHL: Thank you, your Honor.

25 Q. Are you familiar with Lobo's -- do you know what Lobo's

1 gun looks like?

2 A. Yes.

3 Q. Had you seen it?

4 A. Yes.

5 MR. POHL: May I approach the witness?

6 Q. I'm showing you what's been marked as Exhibit Number 69.

7 Do you recognize that?

8 A. Yes.

9 Q. What is it?

12:57PM 10 A. That's the .9 millimeter, that is a .9 millimeter gun that
11 was taken from Lobo.

12 Q. Okay. After the gun was taken from Lobo, did the clique
13 talk about the fact that the gun was taken from Lobo?

14 A. Yes.

15 Q. Okay. And when did you do that -- well, how did you do
16 that?

17 A. At a meeting.

18 Q. Okay. So I think we're probably going to get to that
19 tomorrow, but let me jump ahead to ask you about another
12:58PM 20 conversation that you had with Lobo. Okay. Did you and Lobo
21 ever talk about the fact that he was arrested with the gun?

22 A. Yes.

23 Q. Okay. Yes or no, did you talk about that after your
24 arrest in this case?

25 A. Yes.

1 Q. Okay. And what did you and Lobo talk about concerning his
2 arrest with the gun?

3 MR. IOVIENO: Objection.

4 THE COURT: Why don't break there for the DAY, because
5 I'm going to need to rule on that objection.

6 All right. Ladies and gentlemen, remember my cautions
7 not to discuss the case among yourselves or with anyone else or
8 to look at or listen to any media reports. Tomorrow will be a
9 normal schedule, so we'll start hopefully at 9:00.

12:59PM 10 THE CLERK: All rise.

11 (JURORS EXITED THE COURTROOM.)

12 (THE FOLLOWING OCCURRED AT SIDEBAR:)

13 THE COURT: Remind me, set the stage here.

14 MR. POHL: So I'm sure you remember it, it's in the
15 Petroziello memo, after they're arrested in the case, Muerto
16 and Lobo discuss the fact that Pelon is the only person with
17 Lobo at his arrest and that Lobo believed that Pelon had told
18 the police and that Lobo had asked for a green light on Pelon
19 and Casper and that Casper had said that we need more proof in
01:00PM 20 order to execute the green light, so, you know, I was trying to
21 eliminate the in-custody, but that is the sum and substance.

22 THE COURT: In custody but before he's cooperating?

23 MR. POHL: Correct.

24 MR. IOVIENO: The objection was the timing that he's
25 in custody after he's been arrested in that the "in

1 furtherance" of the conspiracy.

2 THE COURT: But it still can be in furtherance, in
3 other words, a conspiracy is not at that point being shut down,
4 right?

5 MS. LAWRENCE: There's another piece that I think was
6 addressed from a separate motion even from the *Petroziello* is
7 that the statement from the witness are going to -- is Lobo's
8 statement to Casper asking for the green light occurred near to
9 the time of his arrest in 2015. That witness, Muerto only
01:01PM 10 learned of it after they were arrested because they didn't tell
11 him that because Muerto was friends with Pelon and thought he
12 would interfere, so the statement itself was made during and in
13 furtherance of the conspiracy in 2015, even if this witness
14 didn't hear of it until later.

15 THE COURT: I'm sorry, walk me through that again.

16 MS. LAWRENCE: The statement that we allege by Lobo or
17 the questioning asking Casper for permission to kill Pelon --

18 THE COURT: Yes.

19 MS. LAWRENCE: -- was made near to the time of Lobo's
01:01PM 20 arrest in 2015. This witness, Muerto did not hear of it until
21 after he and Lobo were in a cell together after this arrest,
22 and this witness will explain that Lobo told him that Lobo did
23 not tell Muerto about it at the time because he thought Muerto
24 would interfere in his plan.

25 THE COURT: Okay.

1 MS. LAWRENCE: So the statement about the green light
2 occurred in 2015, but this witness heard about it later.

3 THE COURT: Okay. And it's in furtherance of the
4 conspiracy as opposed to admissible just against Lobo because?

5 MS. LAWRENCE: Because at the time that they wanted to
6 kill informants and request to kill Pelon, who Lobo suspected
7 was an informant in furtherance of the racketeering conspiracy
8 at the time in 2015.

9 THE COURT: Okay. At the time it was made?

01:02PM 10 MS. LAWRENCE: Yes.

11 THE COURT: But then the second layer, then he's
12 telling Muerto this later. Is that still in furtherance of the
13 conspiracy, in other words, there's two levels to it?

14 MS. LAWRENCE: Yes. And he also said, I should add,
15 had I killed him, we wouldn't be here now. It's clearly part
16 of their moving forward and trying to cover up.

17 MR. IOVINO: I think it's really what they call idle
18 chatter after arrest amongst detainees in a facility. There's
19 no indication that this witness heard the statement when it was
01:03PM 20 supposedly made during the course of the conspiracy, so my
21 objection is with respect to that.

22 THE COURT: Okay. Mr. Murphy.

23 MR. MURPHY: In addition to idle chatter, I would use
24 a different analogy, it's not in furtherance of the conspiracy,
25 it's either reminiscing or Monday morning quarterbacking. It's

1 not -- it's kind of a how did we get here statement rather than
2 a statement that moves the conspiracy along, and the fact that
3 they said, you know, if that request had been acted on we
4 wouldn't be here supports that.

5 THE COURT: Okay. All right. I'm sorry, go ahead.

6 MR. MURPHY: No, that's it for now.

7 THE COURT: Let me ruminate on that, and I will give
8 my ruling tomorrow.

9 MR. MURPHY: And I would say, your Honor, I appreciate
01:03PM 10 Mr. Pohl has avoided the custody thing through leading, but I
11 think this is critical that it come out in the witness' words
12 and not Mr. Pohl's. That's my view on that.

13 MR. POHL: I agree with that, and but for that we'll
14 do that in the morning assuming it comes in.

15 THE COURT: Okay.

16 MR. LOPEZ: There are some translations that I've had
17 prepared, and most of them or all the ones that I would seek to
18 try to admit through Muerto are basically having him recognize
19 his own voice as a participant in these various recordings.

01:04PM 20 THE COURT: Okay.

21 MR. LOPEZ: Absent a stipulation by the government
22 that they're -- that they do come in as accurate, I may have to
23 call a witness out of turn in order to have them --

24 THE COURT: Or I can admit it de bene if you represent
25 that you'll lay the foundation.

1 You said this is a voice identification question, in
2 other words, do I have that right, that Muerto, I'm sorry, I'm
3 using their nicknames, but Muerto identified speakers X, you
4 say the speakers is in fact Y or Muerto himself, and you want
5 to confront him on that?

6 MR. LOPEZ: No, your Honor. There are other
7 statements that he made, which is inconsistent with his
8 testimony here where he is a speaker having a conversation with
9 Pelon.

01:05PM 10 THE COURT: On other tapes?

11 MR. LOPEZ: Yes, making comments about that, for
12 example, he can't get these guys to do anything, they're
13 not -- well, going forward with the rules of the Mara, et
14 cetera, et cetera.

15 THE COURT: There's two issues there. It has to be a
16 prior inconsistent statement, so, you know, that has to fit, in
17 other words, it just can't be you offering your own client's
18 statements --

19 MR. LOPEZ: Right.

01:05PM 20 THE COURT: -- on the translation piece of it.

21 MR. LOPEZ: They're Muerto's statements, not my
22 clients.

23 THE COURT: Okay. But still it's impeachment is what
24 you're doing of a prior inconsistent statement, so if it's all
25 in English, that would be easy, you said X on an earlier

1 occasion, that would be anti-X, that would be easy, and then
2 the translation issue, is there an issue as to --

3 MR. POHL: Well, we got them yesterday.

4 THE COURT: Why don't take a look at them.

5 MR. LOPEZ: In fairness.

6 MS. LAWRENCE: They are coming in.

7 MR. LOPEZ: They came all in, we then did some
8 correction.

9 THE COURT: Rather than having some translator or
01:06PM 10 interpreter out of turn, if there's a foundation laid --

11 MR. POHL: We'll report back in the morning.

12 THE COURT: Okay, thank you.

13 (SIDEBAR CONFERENCE WAS CONCLUDED)

14 THE CLERK: All rise.

15 (Whereupon, the hearing was adjourned at 1:06 p.m.)

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1 C E R T I F I C A T E
23 UNITED STATES DISTRICT COURT)
4 DISTRICT OF MASSACHUSETTS) ss.
5 CITY OF BOSTON)
67 I do hereby certify that the foregoing transcript was
8 recorded by me stenographically at the time and place aforesaid
9 in Criminal Action No. 15-10338-FDS, UNITED STATES vs. HERZZON
10 SANDOVAL, et al., and thereafter by me reduced to typewriting
11 and is a true and accurate record of the proceedings.

12 Dated this 7th day of June, 2018.

13 s/s Valerie A. O'Hara
1415 VALERIE A. O'HARA
16 OFFICIAL COURT REPORTER
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